

IN THE SUPREME COURT OF THE STATE OF NEVADA

BENNETT GRIMES,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Electronically Filed
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1 PROSPECTIVE JUROR NO. 045: Twenty-two years.

2 THE COURT: What do you do for a living?

3 PROSPECTIVE JUROR NO. 045: Sales, wire rope and
4 rigging.

5 THE COURT: Sales --

6 PROSPECTIVE JUROR NO. 045: Sorry?

7 THE COURT: Well, I'm sorry. Can you repeat that?

8 PROSPECTIVE JUROR NO. 045: Wire rope, like these
9 cranes you see right here?

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 045: They have wire that picks
12 stuff up, they make slings, other top-lifting devices.

13 THE COURT: So you sell the wire rope?

14 PROSPECTIVE JUROR NO. 045: Yes.

15 THE COURT: And the rigging systems?

16 PROSPECTIVE JUROR NO. 045: Yes.

17 THE COURT: Okay. Your education background?

18 PROSPECTIVE JUROR NO. 045: High school diploma,
19 twelfth grade.

20 THE COURT: Are you married?

21 PROSPECTIVE JUROR NO. 045: Yes.

22 THE COURT: Is your wife employed?

23 PROSPECTIVE JUROR NO. 045: Yes.

24 THE COURT: What does she do for a living?

25 PROSPECTIVE JUROR NO. 045: She -- what she does is

1 there's a company that goes out to used car dealerships and
2 they put a sticker on a window that looks like a new one, you
3 know, [inaudible] color and all that, you know. Well, she
4 manages the Internet part; so if the dealerships have
5 problems, they call her.

6 THE COURT: She's involved in selling used cars, is
7 that it?

8 PROSPECTIVE JUROR NO. 045: No, no.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 045: She, like I say, what it
11 is there's three guys go to the dealerships and they list if
12 it's a Ford, what year it is, how many miles on it, and they
13 put a sticker, like a new car sticker, put it on the window.
14 Well, when there's mistakes and stuff, the dealerships call
15 her and she corrects them online.

16 THE COURT: So the company she works for prepares
17 like a sticker that goes on a used car --

18 PROSPECTIVE JUROR NO. 045: Correct.

19 THE COURT: -- that looks like the one you get when
20 you have a brand new car?

21 PROSPECTIVE JUROR NO. 045: Correct.

22 THE COURT: It lists all the options and how much it
23 costs and what the miles per gallon is --

24 PROSPECTIVE JUROR NO. 045: Yes.

25 THE COURT: -- City and freeway? Okay. There's a

1 whole company that makes stickers --

2 PROSPECTIVE JUROR NO. 045: Yep.

3 THE COURT: -- to put on used cars?

4 PROSPECTIVE JUROR NO. 045: There's actually three in
5 this town.

6 THE COURT: Okay. And then she manages --

7 PROSPECTIVE JUROR NO. 045: The Internet part
8 [inaudible].

9 THE COURT: -- the Internet part of it.

10 PROSPECTIVE JUROR NO. 045: She checks them to make
11 sure that what they've got in there is right.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 045: And if the used car
14 dealers have problems with it, they call her, and she can
15 correct it.

16 THE COURT: Okay. How long has she done that?

17 PROSPECTIVE JUROR NO. 045: Twelve years.

18 THE COURT: Okay. Do you have children?

19 PROSPECTIVE JUROR NO. 045: Two.

20 THE COURT: Are either of those children old enough
21 to be employed?

22 PROSPECTIVE JUROR NO. 045: I got a son that's 33, he
23 does signs here in town; and my daughter is 28, and she does
24 the same thing I do in California.

25 THE COURT: Okay. Have you ever served as a juror

1 before?

2 PROSPECTIVE JUROR NO. 045: No.

3 THE COURT: Have you or anyone close to you, such as
4 a family member or friend, ever been the victim of a crime?

5 PROSPECTIVE JUROR NO. 045: No.

6 THE COURT: Have you or anyone close to you, such as
7 a family member or friend, ever been accused of a crime?

8 PROSPECTIVE JUROR NO. 045: No.

9 THE COURT: Do you have a tendency to give more
10 weight or credence or less weight or credence to the testimony
11 of a police officer simply because the witness is a police
12 officer?

13 PROSPECTIVE JUROR NO. 045: No.

14 THE COURT: Okay. If you are selected to be on this
15 jury panel, are you a juror that can wait in forming your
16 opinion as to what the appropriate result should be in this
17 case until you have heard all of the evidence and after you've
18 been instructed on the law; can you do that?

19 PROSPECTIVE JUROR NO. 045: Yes.

20 THE COURT: Can you think of any reason why you could
21 not be a completely fair and impartial juror if you were
22 selected to serve on this panel?

23 PROSPECTIVE JUROR NO. 045: No.

24 THE COURT: Thank you, sir. Thank you very much for
25 being here today. And the State can voir dire Mr. Andrews

1 only.

2 MS. BOTELHO: Mr. Andrews, you were present in the
3 courtroom when I asked the jury panel, the first 23, some of
4 the questions that I asked regarding, you know, victim of
5 domestic violence, accused of domestic violence. Do you have
6 any answers to some of those questions, sir? Were you
7 listening and remember?

8 PROSPECTIVE JUROR NO. 045: No. I mean, everybody in
9 my family's been married forever. It just doesn't exist in
10 our family so, I mean --

11 MS. BOTELHO: Okay.

12 PROSPECTIVE JUROR NO. 045: -- none.

13 MS. BOTELHO: Okay. No negative or positive contact
14 with law enforcement that you want to share with us?

15 PROSPECTIVE JUROR NO. 045: No.

16 MS. BOTELHO: Pass for cause, Your Honor.

17 THE COURT: Excuse me. Mr. Hillman, you can voir
18 dire the jury panel.

19 MR. HILLMAN: Counsel, Your Honor, ladies and
20 gentlemen. There aren't a lot of questions left. Everybody's
21 asked them all. Ms. Botelho asked about CSI shows and about
22 the science used in CSI shows and even though she stated that
23 that's not the way things are done; is there anybody here that
24 has a problem with the concept that fingerprints are a
25 scientific proven method for identification? Anybody here

1 that has a problem with the idea that DNA --

2 MS. BOTELHO: Your Honor.

3 MR. HILLMAN: -- is a scientifically proven --

4 MS. BOTELHO: I apologize for interrupting. I would
5 just object based on EDCR 7.70.

6 THE COURT: I think you're getting -- I think you can
7 ask the question if it's just rephrased.

8 MR. HILLMAN: I'll withdraw the question.

9 THE COURT: Okay.

10 MR. HILLMAN: Anybody here not been in a
11 relationship? Anybody here been in a relationship where
12 you've had problems with your spouse, boyfriend, girlfriend?

13 THE COURT: Probably should say: Has anyone ever
14 been in a relationship where they didn't have problems?

15 MR. HILLMAN: Kind of the point of my question.

16 THE COURT: Okay.

17 MR. HILLMAN: Anybody here been to the point where
18 they broke up and they got back together again?

19 THE COURT: Okay. And the record reflect there are
20 members of the jury panel that are raising their hands. At
21 least two.

22 MR. HILLMAN: Okay. I need to get my list. I
23 apologize.

24 THE COURT: That's okay.

25 MR. HILLMAN: Thank you.

1 THE COURT: You know what --

2 MR. HILLMAN: Sir, was --

3 THE COURT: -- and again I just want to tell, I wish
4 we had your names memorized, we were that smart. So if you're
5 going to respond, if you'll just help Mr. Hillman out a little
6 bit and state your name and badge number so we can move it
7 along.

8 MR. HILLMAN: Thank you. Could we start with Ms.
9 David, please?

10 PROSPECTIVE JUROR NO. 016: Yes, Janice David, Juror
11 No. 0016.

12 MR. HILLMAN: What can you tell us about -- do you
13 feel comfortable talking about it, first of all?

14 PROSPECTIVE JUROR NO. 016: Yes, I've been in a
15 relationship. My boyfriend at the time is now my husband.
16 There was a point in time where we were broken up and got back
17 together and we're now married.

18 THE COURT: Were there hard feelings at one point in
19 time?

20 PROSPECTIVE JUROR NO. 016: During the time that we
21 were broken up, yes.

22 MR. HILLMAN: Okay. And then you managed to overcome
23 those; is that correct?

24 PROSPECTIVE JUROR NO. 016: Yes.

25 MR. HILLMAN: Okay. And who else raised their hand?

1 PROSPECTIVE JUROR NO. 022: Jason Morgan, 00 -- or
2 80022. Sorry. Girlfriend through high school and two years
3 of college, I guess. We broke up, I don't know, sixty times,
4 got back together. It was --

5 THE COURT: Sorry.

6 PROSPECTIVE JUROR NO. 022: -- bad, the physical
7 attraction, but everything else was bad. So it ended up I
8 actually moved three hours away just to make sure we didn't
9 get back together.

10 MR. HILLMAN: So it took geography to break it?

11 PROSPECTIVE JUROR NO. 022: Yeah, pretty much.

12 MR. HILLMAN: All right. Anybody else? And I had
13 just a few follow-up questions and if you'll excuse me for
14 just a second. Mr. Jennings.

15 PROSPECTIVE JUROR NO. 006: Yes.

16 MR. HILLMAN: You indicated that you got back
17 together with your girlfriend; is that right?

18 PROSPECTIVE JUROR NO. 006: Yes, we've been still
19 together.

20 MR. HILLMAN: Okay. And Mr. Placido, you had
21 indicated you had a negative experience with law enforcement,
22 correct?

23 PROSPECTIVE JUROR NO. 017: Well, I didn't say it's
24 negative, but it's just like what they said, you know, you can
25 plead guilty, you can go home tomorrow.

1 MR. HILLMAN: Okay.

2 THE COURT: Well, I assume that was your lawyer who
3 told you that, your lawyer?

4 PROSPECTIVE JUROR NO. 017: I don't have a lawyer at
5 the time, Your Honor.

6 THE COURT: You entered a guilty plea without being
7 represented by an attorney?

8 PROSPECTIVE JUROR NO. 017: No, ma'am. They just
9 talked to me over there, but there is an attorney --

10 THE COURT: Who talked to you?

11 PROSPECTIVE JUROR NO. 017: There's an attorney --

12 THE COURT: Just a minute. Who talked to you?

13 PROSPECTIVE JUROR NO. 017: The [inaudible] county
14 attorney.

15 THE COURT: Okay. So you had an attorney?

16 PROSPECTIVE JUROR NO. 017: But they told me --
17 that's what they told me, just plead guilty so you can go home
18 tomorrow.

19 THE COURT: Okay. So that was your attorney, not law
20 enforcement?

21 PROSPECTIVE JUROR NO. 017: I couldn't say that's my
22 attorney because I didn't hire him or anything.

23 THE COURT: Okay. But --

24 PROSPECTIVE JUROR NO. 017: But if they -- they
25 represent me --

1 THE COURT: -- the attorney was assigned to you?

2 PROSPECTIVE JUROR NO. 017: -- and that's my
3 attorney.

4 THE COURT: So the attorney was assigned to you?

5 PROSPECTIVE JUROR NO. 017: At that time --

6 THE COURT: By the County?

7 PROSPECTIVE JUROR NO. 017: At that time, ma'am, you
8 know, I was so confused I don't know who's who.

9 THE COURT: Okay. But law enforcement didn't tell
10 you, Enter a guilty plea and you can go home tomorrow, did
11 they?

12 PROSPECTIVE JUROR NO. 017: The attorney, whoever he
13 is on that court with a little television, that's what he told
14 me.

15 THE COURT: So you didn't even appear in court, you
16 appeared in court via video?

17 PROSPECTIVE JUROR NO. 017: Yes, ma'am.

18 THE COURT: Okay. Was the attorney with you wherever
19 you were or was the attorney in the courtroom?

20 PROSPECTIVE JUROR NO. 017: The attorney in the
21 courtroom.

22 THE COURT: So the attorney wasn't even physically
23 present with you; the attorney was in the courtroom?

24 PROSPECTIVE JUROR NO. 017: He's in the courtroom and
25 in a video. He was telling me that, you know, you got enough

1 time and I said -- and I told him that, you know, I'm not
2 going to plead guilty because -- because I didn't do this.
3 But my responsibility is over there in Indiana and I have to
4 go home to my parents and I have nothing to do with this
5 place. And he said, Well, you can plead guilty of this
6 misdemeanor, we're going to lower your case, and you can go
7 home.

8 THE COURT: So you got credit for time served?

9 PROSPECTIVE JUROR NO. 017: That's it. Ma'am, as I
10 said, I spent two months in Los Angeles before they extradite
11 me to Everett, Washington.

12 THE COURT: Okay. So you had a lot of credit for
13 time served, at least sixty days?

14 PROSPECTIVE JUROR NO. 017: Well, they don't want me
15 to get out in L.A., and I was asking -- in the back I asked to
16 extradite to Everett but they kept me over in Los Angeles for
17 two months, over two months.

18 THE COURT: So you had to wait until the police in
19 Everett came and picked you up?

20 PROSPECTIVE JUROR NO. 017: Yes, ma'am.

21 THE COURT: Okay. Did you consider that a negative
22 contact with law enforcement?

23 PROSPECTIVE JUROR NO. 017: I don't know.

24 THE COURT: Were you mad at the police?

25 PROSPECTIVE JUROR NO. 017: I'm not -- I'm not mad at

1 them, but, you know --

2 THE COURT: Are you mad at anybody over that?

3 PROSPECTIVE JUROR NO. 017: No, ma'am, it's just --

4 THE COURT: Not even your ex-wife?

5 PROSPECTIVE JUROR NO. 017: -- you know, I just want
6 the truth, you know, but I couldn't do -- but I have no option
7 at that time.

8 THE COURT: You had no?

9 PROSPECTIVE JUROR NO. 017: Option.

10 THE COURT: Oh, you didn't believe you had any
11 options because you had to get out and get to Indiana?

12 PROSPECTIVE JUROR NO. 017: It's -- it's because of
13 my responsibility in Indiana.

14 THE COURT: Were you mad at anybody at that time over
15 it?

16 PROSPECTIVE JUROR NO. 017: Just mad at my wife.

17 THE COURT: Just your wife. Okay. So the negative
18 contact was your wife, not any of law enforcement?

19 PROSPECTIVE JUROR NO. 017: Well, no, no, ma'am.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NO. 017: It's probably trying to
22 do their job.

23 THE COURT: Okay. Sorry we have to keep asking you
24 about that.

25 PROSPECTIVE JUROR NO. 017: I'm just kind of

1 [inaudible], ma'am. I'm sorry, because I don't want to
2 remember, like it hurts me so much.

3 THE COURT: I'm sorry.

4 MR. HILLMAN: Thank you, I'll move on then. Thank
5 you, Mr. Placido. Ms. Augspurger, you had a little bit of a
6 conversation about your problem that you had many years ago as
7 well. Is that something that you hadn't thought about for a
8 while?

9 PROSPECTIVE JUROR NO. 021: Yeah, I haven't.

10 MR. HILLMAN: And understandably that's something you
11 don't want to think about, but you understand we need to talk
12 to you just a little bit about that?

13 PROSPECTIVE JUROR NO. 021: Yes.

14 MR. HILLMAN: As you -- as you sit here today, and I
15 hope I'm not going over an area we've already gone over, you
16 feel like you're okay with this, that you would follow the
17 law?

18 PROSPECTIVE JUROR NO. 021: Yes.

19 MR. HILLMAN: And that, you know, as the law stands,
20 Bennett Grimes is considered not guilty until the State proves
21 beyond a reasonable doubt something else?

22 PROSPECTIVE JUROR NO. 021: Yes.

23 MR. HILLMAN: Unless they can do that, you would not
24 find him guilty?

25 PROSPECTIVE JUROR NO. 021: No.

1 MR. HILLMAN: Okay. Court's indulgence. I have no
2 further questions and would pass for cause.

3 THE COURT: You'll pass this panel for cause? Yes?

4 MR. HILLMAN: Pass for cause, yeah.

5 THE COURT: At this time the Clerk's prepared what
6 has been marked as Court's Exhibit No. 1. Officer Swarno
7 [phonetic], if you'll hand Exhibit 1 to State of Nevada. The
8 State can exercise their first peremptory challenge. The
9 Defense can exercise their first peremptory challenge. Okay.
10 The State of Nevada can exercise their second peremptory
11 challenge. The Defense can exercise their second peremptory
12 challenge. The State can now exercise their third peremptory
13 challenge. The Defense can exercise their third peremptory
14 challenge. The State of Nevada can exercise their fourth
15 peremptory challenge. The Defense can exercise their fourth
16 peremptory challenge. All right. The State of Nevada and the
17 Defense can exercise their final preemptory challenge.

18 MS. BOTELHO: Your Honor, may we approach with a
19 question very briefly?

20 THE COURT: Of course you can.

21 MS. BOTELHO: Thank you.

22 (Bench conference transcribed as follows.)

23 MS. BOTELHO: Your Honor, I'm sorry. I forgot how
24 you do jury selection. Are we limited to --

25 THE COURT: You forgot?

1 MR. BURNS: Your Honor --

2 THE COURT: [Inaudible.]

3 MR. BURNS: The last one we could only strike someone
4 like 20 through 23.

5 THE COURT: Right.

6 MS. HOJJAT: Oh, really. You didn't tell me that.

7 THE COURT: They are the only people that are
8 available, 19, 22 and 23.

9 MR. HILLMAN: Right.

10 THE COURT: And I would have a panel, there's three
11 left, those are 19, 22, 23. So you both have one challenge,
12 it can only be exercised as to those three people.

13 MR. BURNS: Okay. Thank you, Your Honor.

14 MS. BOTEHO: Yes, Your Honor.

15 MR. HILLMAN: Now before you guys go, we're going to
16 -- we're going to make a Batson objection.

17 THE COURT: Make it now.

18 MR. HILLMAN: That's what I thought. There appeared
19 to be three African Americans on the panel. The State kicked
20 two of them off.

21 THE COURT: And those would be?

22 MR. HILLMAN: Davenport.

23 MS. HOJJAT: And --

24 THE COURT: I have the original. So the State moved
25 their second challenge to challenge Mr. Davenport.

1 MR. HILLMAN: Correct.

2 THE COURT: Okay.

3 MS. HOJJAT: And Ms. Hopkins.

4 MR. HILLMAN: And Ms. Hopkins.

5 THE COURT: They used their fourth --

6 MR. HILLMAN: On Ms. Hopkins.

7 MR. BURNS: Your Honor --

8 THE COURT: Just trying to get a good -- okay. Okay.

9 So your [inaudible] seated on a panel of 23. There are two

10 African Americans --

11 MR. HILLMAN: There were three.

12 MS. HOJJAT: Three.

13 MR. HILLMAN: And two were ejected. We have --

14 MR. BURNS: No. 7 is.

15 MR. HILLMAN: -- Juror No. 7.

16 THE COURT: Okay. All right.

17 MR. HILLMAN: And the State excused two.

18 THE COURT: Okay. They used their second challenge

19 and then fourth challenge.

20 MR. HILLMAN: Correct.

21 MS. HOJJAT: Of their challenges, half of their

22 challenges have now been African American --

23 THE COURT: Okay.

24 MS. HOJJAT: -- individuals.

25 MR. BURNS: Okay. Your Honor, the State has its own

1 Batson challenge as well. But as to these two, the reasons as
2 to Ms. Hopkins, we struck her for the same reason that we
3 struck Juror No. 11, Mrs. Augspurger, in that both of them are
4 retired teachers, and in our experience teachers are more
5 focused on problem-solving, non-punitive resolution of
6 disciplinary problems.

7 Also they are more prone to look to socio-economic
8 explanations for misbehavior problems such as that. So, and
9 you'll note that Juror No. 11 appears to be a Caucasian woman,
10 so we did strike her. She seemed to be -- she had a prior
11 history as a domestic violence victim, but we did strike her
12 because she's a retired teacher. That was the same reason why
13 we struck Ms. Hopkins and that concern is even more salient
14 with her because she's dealing with high risk, and she's doing
15 a special project for that, so it indicates she has some
16 special passion for that, and in her line of work we just
17 think she's going to be more predisposed to look to --

18 THE COURT: Okay. So you don't like school teachers
19 on your panel?

20 MR. BURNS: Well, it's one of the main -- it's the
21 main reason that we struck these two jurors, No. 11 and No.
22 17.

23 THE COURT: Okay.

24 MR. BURNS: As to --

25 THE COURT: Mr. Davenport.

1 MR. BURNS: -- Mr. Davenport, he's No. 18.

2 THE COURT: He's right next to Ms. [inaudible].

3 MR. BURNS: It's pretty clear why we struck him. He
4 just went through this recent situation where his best friend
5 was killed in a domestic violence situation, that's kind of an
6 uncanny parallel to the situation in this case that his best
7 friend was in the home of his estranged wife or lover or
8 girlfriend or whatever.

9 THE COURT: Baby's mamma. I tried to save you from
10 saying that.

11 MR. BURNS: Okay. And in that process that person
12 was intruding into the home, and according to the juror, being
13 killed and his view is that -- is that was a legitimate use of
14 -- that he was killed based on like self defense or something,
15 so it kind of mirrors this situation as well. So our concern
16 with him is that that incident is so fresh that he's going to
17 be more predisposed to empathize with the Defendant's
18 situation because the Defendant -- our theory of the case, the
19 evidence will be, that he intruded like this person into his
20 estranged wife's house and the Defendant is going to claim
21 that, you know, it was self defense and that there were
22 multiple people in the house and the victim in this case took
23 the weapon against him.

24 Just there's such an uncanny parallel and because of
25 his emotional connection to his best friend that we just

1 wanted -- that's the reason we excluded him. It has nothing
2 to do with him being of a different race.

3 THE COURT: Okay. That's all of two.

4 MR. BURNS: I have my Batson challenge.

5 THE COURT: Do you want to respond to that?

6 MR. HILLMAN: We all know how Batson works. We've
7 made our objection.

8 THE COURT: Okay. All right.

9 MR. HILLMAN: We just make an objection for the
10 record.

11 THE COURT: So the objection is overruled. And the
12 State wants --

13 MS. HOJJAT: I'm sorry. There was just one thing I
14 did want to put on the record for the Batson challenge. Juror
15 No. 1 is a counselor, and so in terms of people being inclined
16 to doing problem-solving as opposed to punitive measures,
17 Juror No. 1, who is a while male --

18 THE COURT: [Inaudible.]

19 MS. HOJJAT: -- has basically said he's a marriage
20 counselor --

21 THE COURT: Therapist. Okay.

22 MS. HOJJAT: -- and so we would argue that that's a
23 pre-textural reason given the fact that somebody who's entire
24 job is conflict resolution as opposed to punitive measures --

25 THE COURT: Well, I don't know what his entire job

1 is. I know he's a therapist.

2 MS. HOJJAT: -- was left on the jury and was not
3 struck.

4 MR. BURNS: I have an explanation for why we did not
5 strike him, because he indicated --

6 THE COURT: You can do this, but I don't think you
7 have to.

8 MR. BURNS: Okay. I just want to make a record.

9 THE COURT: Okay. Go ahead.

10 MR. BURNS: I mean, he's -- clearly he's worked
11 almost exclusively with domestic violence victims, so I'm fine
12 with that. He said he's interactively [inaudible] domestic
13 violence defendants like this Defendant, like very few, so I'm
14 not as concerned with him, you now, treating a victim --

15 THE COURT: Did you just say -- did you just say he
16 works exclusively with domestic violence victims and then say
17 -- I'm sorry. I misunderstood.

18 MR. BURNS: Okay.

19 THE COURT: I misunderstood what you said.

20 MR. BURNS: He said in his experience he's interacted
21 with a lot of domestic violence victims.

22 THE COURT: Okay. That's what I thought. Okay.

23 MR. BURNS: Yeah.

24 THE COURT: Okay.

25 MR. BURNS: He [inaudible] exclusively, but he's --

1 in his work he deals with [inaudible] victims, that's the
2 reason why, you know, I didn't mean like high school situation
3 where people are acting out. Usually there are [inaudible]
4 bodies involved. It's, you know, teachers usually do like
5 sort out things in a non-punitive way, get the kids back on
6 education, address their socio-economic needs.

7 THE COURT: Okay. So now the State wants to make a
8 Batson challenge.

9 MR. BURNS: Yes, Your Honor. I note that -- that the
10 Defense has struck -- it appears exclusively white male adults
11 at this point. They struck Juror No. 15.

12 THE COURT: White male adults?

13 MR. BURNS: That's correct. They struck Juror No. 15
14 who my recollection on that --

15 MS. HOJJAT: What was the name on that? Sorry.

16 MR. BURNS: Keenum. First --

17 THE COURT: Juror No. 14, Michael Andrews. They
18 struck -- Gordon Brooke was their first challenge. Their
19 second challenge was Peter Pryor. Their third challenge was
20 Michael Andrews. And their fourth challenge was Vicky
21 Woodside, which I presume is a female.

22 MR. BURNS: Okay.

23 THE COURT: She's the school bus driver.

24 MR. BURNS: Okay.

25 THE COURT: You want to see? Of course.

1 MS. HOJJAT: Yeah, I can't remember either.

2 THE COURT: I know the last one, she's a school bus
3 driver.

4 MS. HOJJAT: Yes, Your Honor.

5 THE COURT: So I guess there's three of them.

6 MR. BURNS: I'm not sure what the reason would be for
7 Mr. Andrews or Mr. Brooke. I don't recall them really even
8 asking either of them any questions.

9 MS. HOJJAT: Which ones were they?

10 MR. HILLMAN: Andrews or Brooke.

11 MR. BURNS: Mr. Pryor, I think, I'm guessing that
12 their reason is that they think in his job he interacted with
13 some domestic violence situations, so.

14 MS. HOJJAT: Yeah.

15 MR. BURNS: I think it's clear they're just striking
16 white male jurors primarily [inaudible].

17 THE COURT: To me, I guess [inaudible] adults and the
18 fourth one was --

19 MR. BURNS: My concern is that they don't -- they
20 don't ask these jurors any questions.

21 MS. HOJJAT: And, Your Honor, I can explain why we
22 struck each one of those jurors. Who is the first one?

23 THE COURT: No. 1 was Gordon Brooke.

24 MS. HOJJAT: Gordon Brooke. What was his badge
25 number? I'm sorry. Actually, I do remember that individual.

1 MR. HILLMAN: Eleven. Yeah, he -- he gave our client
2 a really bad look when he walked out of the courtroom.

3 MS. HOJJAT: And our client noted it and told us that
4 he just -- he gave him the stink eye, our client said that guy
5 --

6 THE COURT: What's the "stink eye"?

7 MS. HOJJAT: He gave him a disparaging look basically
8 as he was leaving the courtroom.

9 THE COURT: Like what?

10 MS. HOJJAT: Our client felt that this person had
11 already judged him and found him guilty.

12 THE COURT: Based on a look?

13 MS. HOJJAT: Yes, Your Honor.

14 THE COURT: Okay. So your client actually struck
15 that person and you did?

16 MS. HOJJAT: Yes.

17 THE COURT: Okay.

18 MS. HOJJAT: Yes. He also -- yeah, I think that was
19 the reason we made that strike.

20 MR. HILLMAN: He also has a brother-in-law,
21 ex-brother-in-law tHat are police officers. We didn't feel
22 good about that.

23 THE COURT: Okay. So Mr. Brooke had stink eye. No.
24 2 is Peter Pryor, the firefighter.

25 MS. HOJJAT: And Mr. Pryor at one point stated on the

1 record "I don't understand how anybody could ever stab a
2 woman." Our argument obviously here is self defense and so we
3 are not disputing that there were injuries to Ms. Grimes,
4 we're simply providing an explanation. He's already basically
5 said he's not open to any explanations for how harm could come
6 to a woman.

7 THE COURT: Okay.

8 MS. HOJJAT: Who's the third one, I'm sorry?

9 THE COURT: Michael Andrews.

10 MR. HILLMAN: That was the crane rigger.

11 MS. HOJJAT: I can't find him on here.

12 MS. BOTELHO: Badge No. 045.

13 THE COURT: He was the person that took Ms.
14 Hernandez's spot.

15 MS. HOJJAT: Oh, yes. I think we just --

16 MR. HILLMAN: With him it was more his attitude when
17 he was answering the questions that he was asked. It was
18 something we didn't feel comfortable with.

19 MS. HOJJAT: He was basically very short, very
20 abrupt. His answers were -- almost wasn't letting people
21 finish the question before he was answering. We didn't feel
22 like he'd have an open mind or be willing to actually sit
23 through and listen closely to all the evidence. We felt like
24 he was --

25 MR. BURNS: Are these questions from the Court?

1 THE COURT: I mean, because I'm the only one who
2 pretty much questioned him. I generally don't let people cut
3 me off because we have to make a record. I don't recall him
4 doing that.

5 MS. HOJJAT: He didn't cut you off with, Your Honor,
6 with the questions that were asked. We just felt like he was
7 very abrupt. He wasn't really taking the time to think about
8 the answers. It was just, no, no, no, no. We just didn't
9 feel like he would be open-minded, Your Honor.

10 MR. HILLMAN: And finally --

11 THE COURT: You didn't think he would be open-minded.
12 Okay.

13 MS. HOJJAT: Since most of the jurors are Caucasian
14 males, it's --

15 THE COURT: It's kind of hard to avoid --

16 MR. HILLMAN: -- hard to exercise peremps without
17 involving them.

18 THE COURT: Okay. Do you want to add anything?

19 MR. BURNS: No, we submit it, Your Honor.

20 THE COURT: Okay. So the Batson challenge is
21 overruled. And now I'm going to give you Court's Exhibit No.
22 1. Do you want to go back to your seats or do you want to
23 just do it right here?

24 MS. BOTELHO: We can do it right here, Your Honor.

25 THE COURT: Okay. So the State can exercise their

1 fifth and final challenge. And you know which ones are
2 available.

3 MS. BOTELHO: Nineteen, 22, and 23.

4 THE COURT: Nineteen, 22 or 23.

5 MS. BOTELHO: All right.

6 THE COURT: Okay. The Defense can exercise their
7 final challenge.

8 MS. HOJJAT: Thank you.

9 (End of bench conference.)

10 THE COURT: Okay. At this time, ladies and
11 gentlemen, I'm going to ask the ladies and gentlemen of the
12 jury panel if all of you could just step outside. We're going
13 to take a couple minutes. I'm going to go over the jury list
14 with both sides. When you come back in, if everyone will just
15 sit in the gallery. This will only take us about two or three
16 minutes. When the marshal brings you back in, the clerk's
17 going to call our panel of jurors.

18 At that time you'll know if you're on the jury panel
19 and everyone else will be excused for the day -- well, you'll
20 be excused period. You'll be able to go home and you won't
21 have to come back. So if you'll just step outside for about
22 two to three minutes and we'll bring you back in as soon as
23 we're ready. So don't go too far because we really will only
24 take a couple minutes.

25 (Prospective jury panel recessed at 4:38 p.m.)

1 THE COURT: Okay. The record will reflect this
2 hearing is taking place outside the presence of the jury
3 panel. Our jury panel will be as follows: Juror No. 1, Mark
4 Whelchel. Juror No. 2, Nick Schettino. Juror No. 3, Ms. Pod.
5 Juror No. 4, Brandon Cruz. Juror No. 5, Janice David. Juror
6 No. 6, Ruben Placido. No. 7, Michala Reinholtz. No. 8,
7 Anthony Martino. No. 9, Jason Morgan. No. 10, Robert Conley.
8 No. 11, Brandon Keenum. No. 12, Kirk Sanford. And No. 13,
9 which will be our alternate, Richard William Evans.

10 Any objection by the State other than what's already
11 been stated?

12 MS. BOTELHO: No, Your Honor.

13 THE COURT: Thank you. Any objection by the Defense
14 other than what's already been previously stated at the bench?

15 MR. HILLMAN: No, Your Honor.

16 THE COURT: Okay. At this time we'll bring everybody
17 in. They can just sit in the gallery and we'll start calling
18 the jury panel. You don't have any witnesses out there, do
19 you?

20 MS. HOJJAT: No, we don't, Your Honor.

21 (Prospective jury panel reconvened at 4:40 p.m.)

22 THE COURT: Everyone can just sit out in the gallery
23 and the clerk is going to start calling our jury panel. Mr.
24 Whelchel, you're going to be Juror No. 1. I just didn't want
25 you to sit down.

1 THE CLERK: Juror No. 1, Mark Whelchel. Juror No. 2,
2 Nick Schettino.

3 THE COURT: Mr. Schettino. I don't see him yet.
4 Okay. Mr. Schettino, you're going to be Juror No. 2. If
5 you'll take your seat in the jury box. You're Juror No. 2.
6 No. 3, Ms. Pod. You're going to be Juror No. 3. Brandon
7 Cruz, Juror No. 4. Juror No. 5, Janice David. Juror No. 6,
8 Ruben Placido. Juror No. 7, Michala Reinholtz. Juror No. 8,
9 which will this first seat in the second row, Anthony Martino.
10 Mr. Martino. No. 9, Jason Morgan. No. 10, Robert Conley.
11 No. 11, Brandon Keenum. Juror No. 12, Kirk Sanford. Mr.
12 Sanford. And Juror No. 13, Mr. Evans, Richard Evans. Mr.
13 Evans. Richard Evans. Okay. Can you go out and call the
14 hallway. Mr. Richard Evans. He was in the last --

15 MR. HILLMAN: Here he is.

16 THE COURT: There he is, I seem him. Mr. Evans,
17 you're Juror No. 13, okay? At this time, ladies and
18 gentlemen, we do have our jury panel. If your name was not
19 called, you are excused. Go to the third floor, check out,
20 and make sure you get your parking validated, you're free to
21 go. Thank you very much for being here.

22 Okay. The record will reflect that the venire has
23 left. Do the parties stipulate to the presence of our jury
24 panel?

25 MS. BOTELHO: The State does, Your Honor.

1 MR. HILLMAN: Yes, Judge.

2 THE COURT: Okay. At this time, ladies and
3 gentlemen, I'm going to give you a few instructions and then
4 I'm going to excuse you for the evening. We will start
5 tomorrow morning at 10:30, so when you come back tomorrow you
6 can come up to the fourteenth floor, at which time the officer
7 will be waiting and he will bring you in where we will start
8 at 10:30.

9 Ladies and gentlemen, you're admonished that no juror
10 may declare to a fellow juror any fact relating to this case
11 of his or her own knowledge. And if any juror discovers
12 during the trial after the jury has retired that he or she or
13 any other juror has personal knowledge of any fact in
14 controversy in this case, he or she shall discuss the
15 situation to myself in the absence of the other jurors.

16 This means if you learn during the course of this
17 trial that you are acquainted with the facts of the case or
18 the witnesses, and you've not previously told me this
19 relationship, you must then declare that fact to me. Again I
20 want to remind you that now we do have an impaneled jury.

21 Myself, the parties, the attorneys, the staff in
22 Department 12, with the exception of the court marshal, are
23 not permitted to have any communication with you whatsoever
24 outside of the courtroom. That means that if we see you in
25 the hallway, the elevator, coming in and out of the

1 courthouse, we're not going to talk to you, okay? We won't
2 even acknowledge you or say hello.

3 Please do not be offended by this. Again we are all
4 just maintaining our ethical obligation to maintain the
5 integrity of the jury system. So if there is something you
6 need to communicate to the Court, you do so inside the
7 courtroom in the presence of both sides. So when the lawyers
8 are out there, don't try to talk to them about the case.
9 They're not going to talk to you. They're not going to
10 respond to you. Neither will I and neither will any of the
11 staff. The only person that can talk to you is the court
12 marshal.

13 What I will now say is intended to serve as an
14 introduction to the trial of this case. It's not substituted
15 for the detailed instructions on the law which I will give you
16 at the close of the case and before you retire to consider
17 your verdict. This is a criminal case commenced by the State
18 of Nevada, which I may sometimes refer to as the "State,"
19 against the Defendant, Mr. Bennett Grimes.

20 This case is based upon a Third Amended Information.
21 At this time, I'm going to have the clerk read the Third
22 Amended Information to the ladies and gentlemen of the jury
23 and say the plea of Mr. Grimes that he entered to the charges.
24 Go ahead.

25 (Clerk read the Information and Defendant's Plea.)

1 THE COURT: Thank you. This case is based upon the
2 Information which has just been read to you. You should
3 distinctly understand that the Information is simply a charge
4 and that it is not in any sense evidence of the allegations it
5 contains. The Defendant has entered a plea of not guilty to
6 the Information. The State therefore has the burden of
7 proving each of the essential elements as alleged in the
8 charging document by proof beyond a reasonable doubt.

9 As the Defendant sits here today, he is presumed
10 innocent. The purpose of this trial is to determine whether
11 the State of Nevada will meet their burden of proof. It is
12 your primary responsibility as jurors to find and determine
13 the facts. Under our system of criminal procedure, you are
14 the sole judge of the facts.

15 You are to determine the facts and the testimony you
16 hear and the other evidence, including exhibits introduced in
17 Court. It is up to you to determine the inferences which you
18 feel may be properly drawn from the evidence. The parties may
19 sometimes present objections to some of the testimony or other
20 evidence.

21 It is the duty of a lawyer to object to evidence
22 which he or she believes may not properly be offered and you
23 should not be prejudiced in any way against a lawyer who makes
24 objections on behalf of the party he or she represents. At
25 times I may sustain objections or direct that you disregard

1 certain testimony or exhibits. You must not consider any
2 evidence to which an objection has been sustained and in which
3 I have instructed you to disregard.

4 Anything you may have seen or heard outside the
5 courtroom is not evidence and must also be disregarded.
6 Remember, statements, arguments, and opinions of counsel are
7 not evidence in the case. However, if the attorneys stipulate
8 as to the existence of a fact, you must accept the stipulation
9 as evidence and regard that fact as proved.

10 You must not speculate to be true any insinuations
11 suggested by a question asked the witness. A question is not
12 evidence and it may be considered only as it supplies meaning
13 to the answer. You must not be influenced in any degree by
14 any personal feeling or sympathy for or prejudice against the
15 State or the Defendant. Both sides are entitled to the same
16 fair and impartial consideration.

17 In considering the weight and value of the testimony
18 of any witness you may take into consideration the appearance,
19 attitude and behavior of the witness, the interest of the
20 witness in the outcome of the case, if any. The relation of
21 the witness to the defendant or the State, the inclination of
22 the witness to speak truthfully or not and the probability or
23 improbability of the witnesses' statements and all the facts
24 and circumstances in evidence.

25 Thus, you may give the testimony of any witness just

1 such weight and value as you believe the testimony of that
2 witness is entitled to receive. There are two kinds of
3 evidence: Direct and circumstantial. Direct evidence is
4 testimony by a witness about what that witness personally saw
5 or heard or did.

6 Circumstantial evidence is testimony or exhibits
7 which are proof of a particular fact from which, if proven,
8 you may infer the existence of a second fact. You may
9 consider both direct and circumstantial evidence in deciding
10 this case. The law permits you to give equal weight to both,
11 but it is for you to decide how much weight to give to any
12 evidence.

13 Opening statements and closing arguments of the
14 attorneys are intended to help you in understanding evidence
15 and applying the law, but they are not evidence. No
16 statement, ruling, remark or comment which I make during the
17 course of this trial is intended to indicate my opinion as to
18 how you should decide this case or to influence you in any way
19 in your determination of the facts.

20 At times, I may even ask questions of the witnesses.
21 If I do so, it's for the purpose of bringing out matters I
22 feel should be brought out and not in any way to indicate my
23 opinion about the facts or indicate the weight I feel you
24 should give the testimony of that particular witness. I may
25 also find it necessary to admonish the attorneys, and if I do,

1 you should not so prejudice against a lawyer or his or her
2 client because I found it necessary to admonish him or her.

3 Until this case is submitted to you, you must not
4 discuss it with anyone, even with your fellow jurors. After
5 it is submitted to you, you must discuss it only in the jury
6 room with your fellow jurors. It is important you keep an
7 open mind and not decide any issue in the case until the
8 entire case has been submitted to you under instructions from
9 the Court.

10 The trial will proceed in the following manner. The
11 Deputy DA will make an opening statement, which is an outline
12 to help you understand what the State expects to prove in
13 their case in chief. Next, the Defense attorney may, but does
14 not have to make an opening statement. Opening statements
15 serve as an introduction of the evidence which the party
16 making the statement intends to prove.

17 The State will then present its evidence and counsel
18 for the Defense may cross-examine the witnesses. Following
19 the State's case, the Defendant may present evidence and the
20 Deputy District Attorney may cross-examine the witnesses;
21 however as I said, the Defendant is not obligated to present
22 any evidence.

23 After all the evidence has been presented, I will
24 instruct you on the law. After the instructions on the law
25 have been read to you, each side has the opportunity to

1 present closing arguments. What is said in closing argument
2 is not evidence. Their arguments are designed to summarize
3 and interpret the evidence.

4 Since the State has the burden of proving the
5 Defendant guilty by proof beyond a reasonable doubt, the State
6 has the right to open and close the arguments. After the
7 arguments have been completed, you will then retire to
8 deliberate upon your verdict. Again we remind you that until
9 this case is submitted to you, do not talk to each other about
10 it or about anyone that has anything to do with it until the
11 end of the case when you go to the jury room to decide upon
12 your verdict.

13 Do not talk with anyone else about this case or about
14 anyone that has anything to do with it until the trial has
15 ended and you've been discharged as jurors. Anyone else
16 includes members of your family and your friends. You may
17 tell them you are a juror in a criminal case, but don't tell
18 them anything else about it until after you've been discharged
19 by myself.

20 Do not let anyone talk to you about the case or about
21 anyone that has anything to do with it. If someone should try
22 to talk to you, please report it to me immediately by
23 informing the court marshal. Do not read any news stories or
24 articles or listen to any radio or television reports about
25 the case or about anyone who has anything to do with it.

1 As members of the jury, you will be given the
2 opportunity to ask questions of any of the witnesses who are
3 called to testify in this case. You are not encouraged to ask
4 large numbers of questions because that is the primary
5 responsibility of counsel. Questions may be asked but only in
6 the following manner: After both lawyers have finished
7 questioning the witness and only at this time.

8 If there are additional questions you would like to
9 ask that witness, you may then seek permission from the Court
10 to ask that witness a written question. If you do want to ask
11 a written question, write your question down with your juror
12 number on a full sheet of clean paper and raise your hand.
13 All questions from jurors must be factual in nature and
14 designed to clarify information already presented.

15 In addition, jurors must not place undue weight on
16 the responses to their questions. The court marshal will pick
17 your question up and present it to the Court. All questions
18 must be directed to the witness and not to the lawyers or to
19 myself. After consulting with the lawyers, I will then
20 determine if your question is legally proper.

21 If I determine that your question may be properly
22 asked, I will ask the witness your question. No adverse
23 inference should be drawn if the Court does not allow a
24 particular question.

25 Okay. At this time, ladies and gentlemen, we're

1 going to -- can I have the blue badges? Okay. Before you
2 leave, you can take off those white badges that the Jury
3 Commissioner gave you. You can give them to the court
4 marshal. He's going to give you a blue badge that identifies
5 you as a juror in Department 12.

6 You don't have to wear them when you're outside of
7 the courthouse, but if you'll please keep them on when you are
8 inside the courthouse, that identifies you as a juror so that
9 all of the people that work in the courthouse, the witnesses,
10 anybody that's involved in this case knows not to talk about
11 the case to you.

12 So when you go out, I don't care, you can take them
13 off, but as long as you keep them on as soon as you come into
14 the courthouse that would be very helpful. Again, we're going
15 to start tomorrow morning at 10:30, so if you will -- what
16 time did you arrive this morning?

17 UNIDENTIFIED SPEAKER: 9:30.

18 THE COURT: 9:30. Were the elevators -- oh, you went
19 to the third floor. Did anyone take the elevators to the
20 third floor?

21 UNIDENTIFIED SPEAKER: The escalators.

22 THE COURT: The escalators? Okay. Unless -- you
23 can't even take the stairs up here, I don't think. So you
24 have to take the elevators to the fourteenth floor. So I just
25 want to remind you tomorrow morning when you're here between

1 10:00 and 10:30, it is -- it's not as bad as it is at 8:00 or
2 8:30, but it's still busy in the morning. Sometimes it can
3 take 15 or 20 minutes to get an elevator up here, so I just
4 ask you to keep that in mind when you're planning how much
5 time it will take you to get here.

6 So again, tomorrow 10:30. If we go into Friday, we
7 will be starting at 8:30 in the morning and we go until five
8 o'clock at night. During this recess you're admonished not to
9 talk or converse amongst yourselves or with anyone else on any
10 subject connected with this trial or read, watch or listen to
11 any report of or commentary on the trial or any person
12 connected with this trial by any medium of information
13 including without limitation newspapers, television, the
14 Internet or radio, form or express any opinion on any subject
15 connected with this trial until the case is finally submitted
16 to you.

17 You're further admonished you may not communicate
18 with anyone, including your fellow jurors about this case on
19 your cellphone, through email, Blackberry, iPhone, text
20 messaging, through Twitter, any blog or website through any
21 Internet chat room or by way of any other social networking
22 website, including but not limited to Facebook, MySpace,
23 LinkedIn and YouTube.

24 Thank you very much for appearing today. You are
25 excused. See you tomorrow morning at 10:30. Are you giving

1 them their badges?

2 COURT MARSHAL: I will, Judge.

3 THE COURT: Okay.

4 (Jury panel adjourned at 4:58 p.m.)

5 THE COURT: This is taking place outside the presence
6 of the jury panel. On the Third Amended Information I crossed
7 out David [inaudible] and put Mr. Wolfson's name in there.

8 MS. BOTELHO: Thank you, Your Honor.

9 THE COURT: Any objection?

10 MR. HILLMAN: No.

11 MS. HOJJAT: No objection.

12 THE COURT: Okay. And I initialed it. Anything
13 else?

14 MS. BOTELHO: Your Honor, could we briefly discuss
15 scheduling? Do you know what time you will be declaring a
16 lunch break? We have a doctor who's one of our witnesses
17 who's only available between like an hour and a half window.
18 It's from 1:00 to 2:30.

19 THE COURT: When are you going to call him?

20 MS. BOTELHO: I'm sorry.

21 THE COURT: When are you going to call him?

22 MS. BOTELHO: We can only call her from 1:00 to 2:30
23 p.m. I'm wondering if we could schedule lunch just a little
24 bit before that or --

25 THE COURT: Who says we can only call her between

1 1:00 and 2:30?

2 MS. BOTELHO: Well, this is based on her availability
3 and I told her I would try to work with her.

4 THE COURT: Okay. So when she gets here, she can't
5 go until you're done.

6 MS. BOTELHO: Absolutely.

7 THE COURT: So you're telling me she's going to be
8 here at one o'clock?

9 MS. BOTELHO: She'll be here at one o'clock. I told
10 her to be here at 1:00. I just wondered if --

11 THE COURT: You probably -- if I don't start until
12 10:30 --

13 MS. BOTELHO: Okay.

14 THE COURT: It's up to you when to have her here.
15 I'm not going to let her leave once you start questioning her.

16 MS. BOTELHO: I appreciate that.

17 THE COURT: How long is -- what kind of -- was she
18 the ER doctor?

19 MS. BOTELHO: She treated the victim, Your Honor.

20 THE COURT: How long do you think it's going to take?

21 MS. BOTELHO: Fifteen minutes max.

22 THE COURT: Oh, okay. Don't worry about it then.

23 MS. BOTELHO: Okay.

24 THE COURT: I mean, I would suggest 1:30, but if you
25 want to tell her to be here at one o'clock.

1 MS. BOTELHO: I'll do so. Thank you.

2 THE COURT: Okay. How long do you think cross is
3 going to be?

4 MR. HILLMAN: Yeah, less than -- less than 15.

5 THE COURT: Okay. I think we'll be able to live with
6 that. Don't worry about it.

7 MS. BOTELHO: Okay. Thank you, Your Honor.

8 THE COURT: Okay. Anything else?

9 MS. BOTELHO: That's all for us.

10 MR. HILLMAN: Nothing else from us.

11 THE COURT: Okay. Mr. Grimes, don't give them a hard
12 time tomorrow when they tell you to get up. I heard you
13 didn't want to get up because it was too early. I mean, don't
14 give them a hard time. Just come over here and wake up when
15 they tell you. They're probably going to bring you over with
16 -- are you going to bring him over in the morning with
17 everybody else?

18 COURT MARSHAL: Everybody that gets [inaudible].

19 THE COURT: I know, you're going to have to come over
20 like a regular criminal calendar day, so got to be here early
21 again so get your rest tonight. Anything else?

22 MS. BOTELHO: No, thank you, Your Honor.

23 MR. HILLMAN: Nothing from us..

24 (Court recessed for the evening at 5:01 p.m.)
25

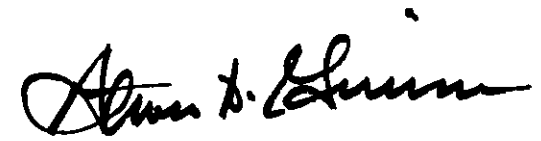
ACKNOWLEDGMENT:

Pursuant to Rule 3C(d) of Nevada Rules of Appellate Procedure, this is a rough draft transcript expeditiously prepared, not proofread, corrected or certified to be an accurate transcript.

A handwritten signature in cursive script, reading "Kimberly Lawson", is written over a horizontal line.

KIMBERLY LAWSON
TRANSCRIBER

UNCERTIFIED ROUGH DRAFT



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C276163-1
)	DEPT NO. XII
VS.)	
)	
BENNETT GRIMES,)	TRANSCRIPT OF
)	PROCEEDINGS
Defendant.)	

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

JURY TRIAL - DAY 2

THURSDAY, OCTOBER 11, 2012

APPEARANCES:

For the State:	AGNES M. BOTELHO, ESQ. Deputy District Attorney PATRICK J. BURNS, ESQ. Deputy District Attorney
For the Defendant:	RALPH HILLMAN, ESQ. Deputy Public Defender NADIA HOJJAT, Esq. Deputy Public Defender

RECORDED BY KERRY ESPARZA, COURT RECORDER
TRANSCRIBED BY: KARR Reporting, Inc.

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1 **LAS VEGAS, NEVADA, THURSDAY, OCTOBER 11, 2013, 11:16 A.M.**

2 *** * * * ***

3 (Outside the presence of the jury.)

4 THE COURT: State of Nevada versus Bennett Grimes.
5 Mr. Grimes is just arriving. He's present. He's out of
6 custody. The jury has not joined us yet. And anything before
7 I bring the jury panel in?

8 MS. BOTELHO: Yes, Your Honor. Before the start of
9 trial we would just like to put a stipulation into the record.

10 THE COURT: Sure, go ahead.

11 MS. BOTELHO: This was discussed by Ms. Hojjat and
12 also Mr. Morgan. Both parties have agreed not to try to seek
13 to admit any other prior bad acts. Of course, we haven't had
14 a Petrocelli hearing or anything like that --

15 THE COURT: Sure.

16 MS. BOTELHO: -- on either part, the victim's part or
17 the defendant's part. So no other bad acts committed,
18 allegedly committed by the defendant or the victim.

19 THE COURT: And you've talked to Ms. Grimes?

20 MS. BOTELHO: Yes, we have spoken to her, Your Honor.

21 THE COURT: So she knows not to go into anything
22 else?

23 MS. BOTELHO: Yes. We have --

24 THE COURT: Okay.

25 MS. BOTELHO: -- repeatedly. Mr. Burns and I have

1 told her that we are focusing only on this incident. We are
2 not even to discuss the details of the temporary protective
3 order. We have pretrialed her on two separate occasions.
4 Now, they also agree that if either party opens the door or if
5 either party tries to claim to be a nonviolent person, then we
6 would approach and, you know, deal with it that way. The
7 State would ask that if a door is opened that we approach and
8 that that particular incident be proved up the same way that
9 it would any other way -- any other time.

10 THE COURT: Okay.

11 MS. BOTELHO: And that, you know, each side, of
12 course, is aware of the fact that we can't try to open the
13 door ourselves by baiting, you know, a witness into say
14 something like that.

15 THE COURT: I understand.

16 MS. BOTELHO: Okay.

17 THE COURT: Okay. So if either side wants to go into
18 it they're going to approach and ask first.

19 MS. BOTELHO: If we feel as though the door's been
20 opened.

21 THE COURT: Otherwise, there's a stipulation no one's
22 going to into any prior bad acts regarding the victim or the
23 defendant.

24 MS. HOJJAT: : That's correct, Your Honor.

25 THE COURT: Okay. We can bring the panel in.

1 (Jury panel reconvened at 11:19 a.m.)

2 THE COURT: Ladies and gentlemen, if you'll please
3 remain standing because when you're all in I'm going to have
4 the clerk administer the oath of service.

5 Would the parties stipulate to the presence of the
6 jury panel?

7 MS. BOTELHO: The State does, Your Honor.

8 THE COURT: If you'll all please remain standing and
9 raise your right hand, the clerk's going to administer the
10 oath of service.

11 (Jury panel sworn by clerk)

12 THE COURT: Thank you very much. The State may
13 address the panel in their opening statement.

14 MS. BOTELHO: Thank you, Your Honor.

15 OPENING STATEMENT

16 MS. BOTELHO: Good morning, ladies and gentlemen of
17 the jury. The fact that Aneka Grimes was alive on July 22nd,
18 2011 at approximately 7:04 p.m. is nothing short of a miracle.
19 At that time, Aneka was pressed against her mother's chest,
20 bleeding from several parts of her body. Her mother was
21 desperately trying to use a towel to stop the bleeding from
22 what she -- what appeared to be the most serious wounds that
23 Aneka had, primarily on her head and on her neck.

24 Let's rewind 20 to 30 minutes before. That's Aneka
25 Grimes. Twenty to 30 minutes before that incident, Aneka and

1 her mother were returning to Aneka's apartment located at 9325
2 West Desert Inn Road, Apartment Number 174. They had just
3 gone car shopping; Aneka had just gotten a brand new car.
4 Return to this apartment, Aneka entered first, her mother
5 followed. As the door -- as her mom had already gotten into
6 the apartment and was about to shut the door behind her, she
7 noticed the defendant coming up towards her.

8 The defendant -- she tried to shut the door, called
9 for Aneka, Aneka ran over. And as the defendant pushed the
10 door from the outside, Aneka and her mother tried to use their
11 combined strength to keep the door shut. They lost. He was
12 too strong and he was able to bust through this door. Inside
13 of Aneka's apartment the defendant made his way to the
14 entryway right here. Aneka backed up, kind of towards that
15 counter area in her apartment. Her mother stayed kind of
16 between the two of them in this particular area. They tried
17 to get the defendant to leave. They both pleaded with him,
18 get out of here Bennett, get out of here, you're not supposed
19 to be here.

20 Why wasn't he supposed to be here? Well, Aneka had
21 gotten a temporary protective order that banned the defendant
22 from being in that apartment or anywhere near Aneka. They
23 told him to leave, he refused. So Aneka's mom, Stephanie,
24 called Aneka's father, told him what was going on. Mr.
25 Newman, Aneka's father, in turn called the Las Vegas Police.

1 His 9-1-1 call set the next set of events, miraculous events,
2 into motion.

3 This is Officer Michelle Tavaréz. Officer Tavaréz
4 was actually in the problem-solving unit that particular day,
5 July 22nd, 2011. She was in plainclothes, meaning she was not
6 in a uniform. She was in an armed -- unmarked police car.
7 Something made her pay attention to that call triggered by Mr.
8 Newman's 9-1-1 call. It came through dispatch and as Officer
9 Tavaréz kind of looked around, she realized I just passed that
10 apartment complex, I'll just stop by. She makes a U-turn,
11 tries to locate the subject apartment, apartment number 173
12 and she parks her vehicle right there. She's sitting in her
13 car waiting for backup to arrive, she has the window slightly
14 rolled down and what does she hear? She hears yelling coming
15 from apartment number 173. It sounds like an argument, a loud
16 argument. She waits for backup, she updates dispatch and she
17 tells fellow officers how to get to her location.

18 What's going on inside the apartment? Well, by this
19 point there's arguing in the apartment and it will not leave
20 -- the defendant will not leave. Aneka and her mother are
21 still telling him just get out of here, we'll talk to you
22 outside, but please leave. The defendant is pleading with
23 Aneka and her mother, let me stay, I need to talk to you, take
24 me back, please let me back into this apartment, take me back,
25 take me back. He's not taking no for an answer.

1 Aneka at some point kind of moves towards the middle
2 of this bar area. There's still an argument, that same
3 argument being heard by Officer Tavaréz. At some point,
4 because they can't get the defendant to leave, 9-1-1 calls
5 Stephanie Newman, Aneka's mom, asking what's going on, okay,
6 we'll send officers. At this point this was not a priority
7 call because there had been no physical contact. This was,
8 you know, an argument. What's going on Mrs. Newman? Oh,
9 yes, he won't leave, we'll send officers. Aneka upset that
10 now the defendant hasn't left also calls 9-1-1, so there are
11 two calls that you're going to hear. The 9-1-1 call placed by
12 Aneka and also the 9-1-1 call recorded after dispatch called
13 Mrs. Newman, her mother.

14 So what's going on on the police side? Well, that
15 patio that you see right here is the patio to apartment number
16 173. Officer Tavaréz is joined by two other officers, Officer
17 Hoffman and Officer Gallup. Sorry, I don't have a picture of
18 Officer Gallup. They meet in this small little cement walkway
19 right outside of apartment number 173. They hear the
20 argument. They're just, you know, hi, hey, what's going on,
21 this is what we're going to do. They're not there for very
22 long before they're met by Stephanie Newman, Aneka's mother,
23 right at that balcony. She's like hey, I'm the one who called
24 the police, one of you watch the balcony, you know, and the
25 other try to make contact at the front door. Because

1 remember, the defendant's right against that front door from
2 the inside.

3 Stephanie's out there. What's going on inside the
4 apartment as Stephanie is talking to the police? I'll tell
5 you. Aneka's right here kind of towards -- between the two
6 chairs on that balcony and the defendant is not getting what
7 she's saying, get out of here, I don't want to be with you
8 anymore, it's over. At one point, without any kind of
9 warning, the defendant says okay. And before it can register
10 to Aneka what he's doing, the defendant is already in front of
11 her in this balcony -- inside this bar area and he reaches --
12 you can't really see it from this angle, I have a different
13 picture but there's a dish rack located right next to the sink
14 on the opposite end of that bar. He reaches into that dish
15 racks and pulls out a steak knife. He grabs Aneka, brings her
16 towards the front door and repeatedly stabs her as he holds
17 her close to him.

18 There's Aneka's flip-flops. Those are the flip-flops
19 that she will tell you she was wearing that day when she came
20 back home from buying the brand new car with her mother.
21 There's a plate of fruit that was knocked over when the
22 defendant went to grab that knife. Here's a close-up. You
23 see that -- where that arrow is that just popped up? That's a
24 -- the back of a plate or a pan from that dish rack. This is
25 the knife that the defendant grabbed from that dish rack and

1 used to repeatedly stab Aneka as he dragged her towards the
2 front of -- the front door area of this apartment. The
3 defendant held her and stabbed her 21 times.

4 What happens -- what happens next? Well, Mrs.
5 Newman, Aneka's mother, is hearing -- is still on the balcony
6 talking to the police and suddenly she hears mom, mom, he's
7 stabbing me. This frantic call from her daughter. So she
8 comes running back in and she kind of stops right there to see
9 what's going on, only to see the defendant holding her
10 daughter down and stabbing her. She runs to her daughter's
11 aide. Officer Hoffman, who's on that opposite side of that
12 balcony just kind of hanging out waiting for things to happen,
13 hears Aneka's frantic calls and he jumps those rails and he
14 makes it through that balcony and through that door, he runs
15 into this living room area. By that point, Mrs. Newman had
16 already gone to her daughter's aide. She was trying to pull
17 Aneka away from the defendant.

18 Meanwhile -- so this is where the defendant and Aneka
19 are, he's stabbing her. Mrs. Newman rushes to her daughter's
20 aide. Officer Hoffman is running into this house. He kind of
21 stops short, but prior to doing that it looks as though the
22 defendant had Aneka -- held Aneka with his left hand and what
23 the officer could see before he got very close was what
24 appeared to be the defendant punching Aneka, making punching
25 motions, just repeated punching motions. So he's thinking,

1 I've got to stop this. He runs over and he's about one to two
2 feet away before he realizes the defendant's not punching her,
3 he's stabbing her.

4 So what does Officer Hoffman do? He rushes and just
5 -- he'll tell you what caused him to do this, to have such
6 reflexes. Takes his left hand, he lunges at the defendant,
7 uses his left hand to grab that knife mid-22nd stab, tackles
8 him to the ground and while he's doing that he's able to pull
9 his weapon. He tackles the defendant to the ground, holds him
10 down, he's yelling drop the knife, drop the knife. By that
11 point he has his gun, his work gun, pressed against the
12 defendant's neck and he's telling him drop the knife, don't
13 you move. If you move I will shoot you.

14 Officer Gallup hears the commotion. Remember, he's
15 kind of in that cement walkway. He's trying to decide, should
16 I go that way to the door, should I -- he jumps that balcony.
17 He makes it in there just in time to help Officer Hoffman
18 bring the defendant down to the ground.

19 What about Officer Tavaréz? Well, Officer Tavaréz
20 actually made her way to the front door. And what Officer
21 Tavaréz was doing was trying to break the door down to make
22 entry through the front door. But she let that go after she
23 heard the commotion that was directly behind her. So what
24 does she do realizing that now there's the weight of two
25 officers and the defendant wrestling behind that very small

1 area? She makes her way back to the balcony and assists
2 Officers Gallup and Hoffman in taking the defendant into
3 custody.

4 Meanwhile, Mrs. Newman had pulled Aneka off to the
5 side and was trying to help her daughter. So they -- the
6 three officers take the defendant into custody, they secure
7 him, they handcuff him. Who's left in the apartment? Aneka
8 and her mother. Aneka is bleeding, 21 stab wounds, one --
9 several to the neck, she's bleeding. Officer Tavaréz, after
10 the defendant is secure, comes back into the apartment, sees
11 what appears to her to be very serious injuries on Aneka and
12 she grabs a towel from the linen closet and she orders Aneka's
13 mother who's sitting there with her daughter against her chest
14 to put pressure on the wound to her neck and the wound to her
15 head and to not let go until help came. And that's exactly
16 what Stephanie Newman did. She held that towel there until
17 paramedics arrived.

18 This is what the defendant's hand looked like after
19 this incident. This is the only injury he suffered. This is
20 what Stephanie Newman, Aneka's mother looked like after the
21 incident.

22 It took less than two minutes for the defendant to
23 stab Aneka 21 times. It took him less than 20 -- or less than
24 two minutes to cause her that much harm. This is what Aneka
25 looked like after those brief two minutes. The fact that

1 Aneka Grimes was alive on July 22nd at 7:04 pm is nothing but
2 a miracle. Thank you.

3 THE COURT: You can call your first witness. Oh, I'm
4 sorry. Go ahead. I apologize. I got ahead of myself.
5 Sorry.

6 MS. HOJJAT: Thank you.

7 THE COURT: The defense can now address the panel on
8 their opening statement. Sorry.

9 MS. HOJJAT: Thank you, Your Honor.

10 OPENING STATEMENT

11 MS. HOJJAT: Your Honor, may I turn this screen off?

12 THE COURT: Of course.

13 MS. HOJJAT: Ladies and gentlemen, on July 22nd,
14 2011, Bennett Grimes and his wife Aneka were separated. There
15 was a temporary protective order against him. Aneka wanted to
16 leave him, she told him that their marriage was over, but
17 Bennett loved Aneka. Bennett wanted Aneka back. He had just
18 recently gotten a job at the Wal-Mart and he thought this
19 might be the thing that changes it. Maybe she'll take me back
20 if she knows I'm getting my life together. So he went over to
21 her apartment hoping to convince her that they could give it
22 one more try, that this relationship wasn't over yet.

23 Aneka and her mother had just returned home, he
24 followed them into the house. They told him he couldn't be
25 there and he didn't listen. He did push his way into that

1 house. But ladies and gentlemen, the evidence will be very,
2 very clear that after entering the house and crossing the
3 threshold, he stood right there at that entryway. He didn't
4 make a threat against Aneka; he didn't make a threat against
5 her mother. Everybody who gets up there on the stand will
6 testify he didn't say I'm going to hurt you, he didn't say I'm
7 going to kill you. Aneka will tell you he didn't bring a
8 weapon, he didn't bring a knife, he didn't bring a gun.

9 He stood a foot inside of her apartment telling her
10 he loved her, telling her he wanted her back, telling her
11 please, let's try to make this work. The evidence will show
12 that he didn't move from that entryway. Aneka was standing
13 five feet away, next to the kitchen bar. The knife that the
14 State showed you in its opening, was in the kitchen in the
15 dish rack area. The evidence will be very clear on this,
16 ladies and gentlemen. Aneka was standing next to the knife.
17 Bennett was standing five feet away at the entryway.

18 The evidence is going to show, ladies and gentlemen,
19 that it was Aneka who picked up the knife and went towards
20 Bennett. She was sick of him, she didn't want him back, she
21 wanted him gone and she picked up a knife and she went towards
22 him with it. She attacked Bennett with the knife.

23 Now ladies and gentlemen, the State talked to you
24 about 21 stab wounds. Aneka's doctors are going to get on the
25 stand and they're going to tell you that her injuries were

1 shallow, they were lacerations. They were so superficial that
2 she was discharged from the hospital a day and a half later.
3 They're going to tell you that she didn't have a single injury
4 in a place that you and I would expect to see defensive
5 wounds. They're going to tell you she didn't have a single
6 injury on the palms of her hands. They're going to tell you
7 she didn't have a single injury on her fingers, in between her
8 fingers. They're going to tell you she didn't have a single
9 injury on the insides of her wrists. Not a single injury that
10 you would expect to see somebody who's holding their hands up
11 like this, trying to deflect the knife.

12 Ladies and gentlemen, the evidence is going to show
13 that Aneka's injuries were obtained during a struggle for that
14 knife. You're going to see that Aneka picked up the knife and
15 Aneka approached Bennett and that there was a struggle. Aneka
16 was the one injured, but you're going to hear Bennett Grimes
17 is a bigger guy. Who do you expect to be injured in a
18 struggle over a knife?

19 Ladies and gentlemen, you're also going to hear from
20 a DNA analyst in this case. You're going to hear that swabs
21 were done on the knife handle in order to try to determine who
22 was holding that knife. Swabs were done trying to pick up
23 skin cells. Not a single one of Bennett Grimes' skin cells
24 was found on that knife handle. The DNA analyst will tell you
25 only Aneka's DNA was found on that knife handle. You're going

1 to hear that the State didn't bother to get the knife tested
2 for fingerprints, so they're not going to present you with any
3 evidence, any physical evidence, DNA or fingerprinting that
4 Bennett ever held that knife.

5 Ladies and gentlemen, you all raised your hands and
6 you swore to follow the law and Judge Leavitt told you that
7 the law says Bennett Grimes is presumed innocent. Judge
8 Leavitt told you that the law says the State has the burden of
9 proving beyond reasonable doubt the accusations they have
10 leveled against Bennett. That means they have the burden.
11 During this trial Mr. Hillman and I are not obligated to do
12 anything. We're not obligated to ask a single question, we're
13 not obligated to put on any evidence, we're not obligated to
14 call a single witness. They have the burden. They must prove
15 to you beyond a reasonable doubt what they are claiming.

16 And you will see, ladies and gentlemen, that they
17 cannot meet that burden because the evidence will show you
18 that Aneka Grimes picked up that knife, that Aneka Grimes
19 attacked Bennett and that Bennett was acting in self-defense.
20 The evidence will show you this was a struggle gone horribly
21 wrong. And at the end of this case we will ask you to find
22 Bennett Grimes not guilty of the charges against him.

23 THE COURT: Thank you very much. The State can call
24 their first witness.

25 MR. BURNS: Your Honor, the State calls Officer Bobby

1 Hoffman.

2 BOBBY HOFFMAN, STATE'S WITNESS, SWORN

3 THE CLERK: Thank you. Please be seated. And could
4 you please state your full name, spelling your first and last
5 name for the record?

6 THE WITNESS: Bobby Hoffman, B-o-b-b-y,
7 H-o-f-f-m-a-n.

8 THE CLERK: Thank you.

9 DIRECT EXAMINATION

10 BY MR. BURNS:

11 Q Officer Hoffman, how are you currently employed?

12 A With the Las Vegas Metropolitan Police
13 Department.

14 Q And what's your current assignment?

15 A My current assignment is Problem Solving Unit
16 and Enterprise Area Command.

17 Q Thank you. And on July 22nd, 2011, was that
18 your assignment?

19 A It was not.

20 Q Okay. And what -- how were you working on that
21 day?

22 A I was working normal patrol, calls for service.

23 Q Okay. And on July 22nd, 2011, I want to draw
24 your attention to about 6:45 p.m. on that day. And you were
25 working as patrol?

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1 A That's correct.

2 Q And did you have the occasion to be dispatched
3 to 9325 West Desert Inn, Number 173 in Clark County, Nevada?

4 A Yes.

5 Q Okay. And can you describe for us what the
6 nature of that call was?

7 A It was a domestic dispute that was called in by
8 a third party that was out of state.

9 Q And do you know who that third party was?

10 A It was I believe the stepfather of the supposed
11 victim at the time.

12 Q Now, did you -- were you the first officer on
13 the scene?

14 A I was not.

15 Q Okay. Who was the first officer on the scene?

16 A Officer Michelle Tavarez.

17 Q And were you at some point joined by another
18 officer?

19 A Yes, Officer Bradley Gallup.

20 MR. BURNS: Your Honor, may I approach the witness?

21 THE COURT: You may.

22 BY MR. BURNS:

23 Q Officer Hoffman, I'm going to show you some
24 State's -- what have been marked as State's proposed Exhibit's
25 1 through 7 and then 10 and 11. Just take a look at those and

1 let me know if you recognize them.

2 A Yes. It is the exact apartment that the call
3 was originated at.

4 Q Officer Hoffman, those exhibits, are they a fair
5 and accurate depiction of the apartment located at 9325 West
6 Desert Inn on that date that you responded?

7 A Yes, it is.

8 Q And do they include also some of the surrounding
9 area?

10 A Yes.

11 Q And that's all a fair and accurate depiction?

12 A That's correct.

13 MR. BURNS: Now, Your Honor, may I have permission to
14 publish those exhibits that have been admitted.

15 THE COURT: You may.

16 MR. BURNS: I move for admission of these exhibits.

17 THE COURT: What are they? Exhibit --

18 MR. BURNS: One through 7.

19 THE COURT: Any objection?

20 MR. BURNS: And 10 through 11.

21 MR. HILLMAN: No.

22 THE COURT: So 1 through 11?

23 MR. BURNS: One through 7 and --

24 THE COURT: Oh, 1 through 7, 10 and 11?

25 MR. BURNS: Yes, Your Honor.

1 THE COURT: Any objection?

2 MR. HILLMAN: No, ma'am.

3 THE COURT: They're admitted.

4 (State's Exhibit 1 through 7 and 10 and 11 admitted.)

5 BY MR. BURNS:

6 Q Now, Officer Hoffman, the Exhibit 1, do you
7 recognize what that depicts?

8 A Yes. It is the southeast corner of the
9 apartment building.

10 Q And when you responded, where were you located?

11 A I parked my black and white just east of it, so
12 on -- way in the parking lot.

13 Q Okay. And did you at some point have a
14 conference with the other officers outside the apartment?

15 A Yes.

16 Q And about where was that located?

17 A Just southwest -- or southeast of that -- in
18 that parking lot.

19 Q And Officer Hoffman, while you were out there,
20 did you hear anything of concern?

21 A Yes, we did hear arguing and yelling.

22 Q Okay. And how would you describe that kind of
23 arguing?

24 A At that time it was loud enough for me to hear
25 outside. I couldn't tell if there were any windows open or

1 not, but it was definitely not of a normal conversation.

2 Q At some point while you were out there, do you
3 encounter someone on the balcony?

4 A Yes.

5 Q I'm showing you what's been admitted as Exhibit
6 10. Do you recognize that?

7 A Yes.

8 Q And what is that?

9 A That is from the balcony facing east and that's
10 my patrol vehicle along with a couple others.

11 Q And do you recall, who was the person that you
12 encountered on the balcony?

13 A It was the victim's mother.

14 Q Okay. And what was her demeanor at the time?

15 A She was frantic, telling us to dissolve the
16 situation as quick as possible.

17 Q Okay. And did she tell you -- did she give you
18 any additional instructions about what -- what was going on
19 and what -- what to do?

20 A Yeah. She told us that her daughter's soon to
21 be ex-husband or ex-husband followed them inside after they
22 got home from a grocery store and refused to leave.

23 Q Okay. And did she say anything about the
24 balcony?

25 A Yes. She advised that she would like one of the

1 officers to stand by the balcony just in case he wanted to
2 run.

3 Q And did you and Officer Tavaréz and Officer
4 Gallup agree who would -- who would go where?

5 A Yes. I elected to stay at the balcony and
6 allowed Officer Tavaréz and Officer Gallup to approach the
7 front door.

8 Q Now Officer Hoffman, while you are at the
9 balcony, does anything more concerning happen?

10 A Yes. I do see that the sliding glass door is
11 open where I hear the screaming and yelling turning to
12 ultimately a bloody murder screaming and I hear a female
13 yelling ouch and stop.

14 Q Now is -- you hear screaming. Is it by one --
15 does it sound like the same person to you or multiple people?

16 A It -- at that point it only sounded like one
17 person was screaming.

18 Q And could you tell if that was a male or female
19 voice?

20 A It was a female voice.

21 Q And in response to that, what did you do?

22 A I elected to jump over the balcony and make
23 entry through the sliding glass door.

24 Q I'm going to show you, Officer Hoffman, Exhibit
25 Number 12. And do you see -- do you know what that is?

1 A Yes, that's where I made entry at.

2 Q Now once you entered, what did you see?

3 A I observed two females with their backs facing
4 to me and then a male facing towards me.

5 Q Officer Hoffman, I'm going to show you --

6 MR. BURNS: Your Honor, may I approach the witness?

7 THE COURT: You may.

8 BY MR. BURNS:

9 Q I'm showing you what's been marked as State's
10 proposed Exhibit 26. Do you -- do you recognize that?

11 A Yes, that's the interior of the apartment
12 building.

13 Q Is that a fair and accurate depiction of the
14 interior of the apartment when you made entry after hearing
15 screaming?

16 A Yes.

17 MR. BURNS: Your Honor, at this time I'd move for
18 admission of State's proposed Exhibit 26.

19 THE COURT: Any objection?

20 MR. HILLMAN: No objection.

21 THE COURT: It's admitted and you can publish.

22 (State's Exhibit 26 admitted.)

23 MR. BURNS: Court's indulgence.

24 BY MR. BURNS:

25 Q Now looking at what's been admitted as State's

1 Exhibit 26, is that -- is that pretty much the view that you
2 see when you come in?

3 A Yes, it is.

4 Q Okay. And now you -- the two women, you said
5 they were facing -- their backs are to you?

6 A That's correct.

7 Q Okay. And you see a male. And how is he
8 positioned in relation to you?

9 A He is on the opposite side of the two females,
10 so furthest away from me facing me.

11 Q And Officer, if you'd like, the screen in front
12 of you is touch sensitive, kind of like a Monday night
13 football type of thing, if you wanted to draw some kind of
14 shape as to where you are and the two females and the -- and
15 the male.

16 A Yes. I am down here, the male is going to be
17 right here and then the two females are in between us.

18 Q And can you -- do you get a good look at the
19 male at that point?

20 A No. I -- I did not get a good facial view. He
21 was actually hunched over.

22 Q Okay. And what do you see him doing?

23 A At that point he had the female that was in the
24 middle in what appeared to be a headlock and making a punching
25 motion while the second female was grabbing her from the waist

1 trying to pull her away.

2 Q Okay. Now when you saw that, what was -- what
3 did you do?

4 A I immediately took action, ran towards the --
5 towards the male to end the incident and make sure that
6 nothing else further occurred.

7 Q So you're trying to break up what you thought
8 was a fight?

9 A Yes, that's correct.

10 Q Okay. So as you get closer do you notice
11 anything?

12 A Yes. Roughly a foot away I observe the male had
13 a knife in his hands and just extracted it from the female's
14 left side. And as I went in, he was actually in an upwards
15 motion to stab her once again and I was able to grab a hold of
16 his wrists.

17 Q Okay. Officer Hoffman, so you actually see --
18 at this point are you getting a good look at the -- the man?

19 A Yes.

20 Q Do you see him in the courtroom here today?

21 A Yes, I do.

22 Q Can you point to him and describe something he's
23 wearing?

24 A Pink shirt.

25 MR. BURNS: Your Honor, may it -- may the record

1 reflect that the witness has identified the defendant?

2 THE COURT: So reflected.

3 BY MR. BURNS:

4 Q Now you say that he's holding a knife. Can you
5 demonstrate for the ladies and gentlemen of the jury how he's
6 holding that knife with -- with this object? It's a plastic
7 picnic style knife.

8 A Yes, I can.

9 MR. BURNS: Your Honor, may I approach the witness?

10 THE COURT: You may.

11 A He has it in his right hand just as this is.

12 BY MR. BURNS:

13 Q And Officer Hoffman, when you see that, is --
14 does he still have her in a headlock?

15 A Yes. He currently does, yes.

16 Q Okay. Now Officer Hoffman, I'm going to ask you
17 to step down out of the witness stand. And as if I was the
18 woman being stabbed, please demonstrate for the jury how she
19 was being held in a headlock and how the stabbing motion was
20 being undertaken.

21 A He had the knife in his right hand, had his left
22 hand cupped around her neck, punching her over -- he was also
23 hunched over and he was doing this motion. So nothing to the
24 extent of like full swings, but just short jabs.

25 Q Okay, thank you. You can return to the witness

1 stand. Now, did you say anything to the defendant when you
2 saw this?

3 A I yelled out drop the knife.

4 Q And so at some point you grab him and describe
5 for the jury what happens next.

6 A I was able to get control of his right wrist
7 that had the knife in it. I actually lunged at him and
8 knocked him to the ground where he ended up in the corner of
9 the front door and the little side wall right here.

10 Q And what happened next?

11 A By the time that I hit the ground, Officer
12 Gallup had made entry through the sliding glass door as well
13 to assist me. The mother pulled the victim away from us
14 enough to separate them. I retained control of the male's
15 wrist. I also drew my -- I also had my firearm out and I had
16 it in the back of his soft tissue of his neck and told him
17 that if he moved he was going to fucking die.

18 Q And at this point did you know where the knife
19 was?

20 A No, I did not.

21 Q Now the -- this other woman who's present, the
22 mother, what is she doing at this time?

23 A At this point she was able to retain the female
24 victim, pulled her back in to her like waist with her back --
25 with the victim's back to her chest, holding her.

1 Q Now, I'm going to approach with what has been
2 marked as State's proposed Exhibits 75 and 39. Please take a
3 look at these and tell me if you know what they are, what they
4 depict.

5 A Yes. It's the victim's mother and the victim.

6 Q And that's a fair and accurate depiction of
7 Aneka Grimes and her mother, Stephanie Newman on that evening?

8 A That is correct, yes.

9 MR. BURNS: Your Honor, at this time I'd move for
10 admission of State's proposed Exhibits 75 and 39.

11 MR. HILLMAN: No objection.

12 THE COURT: They're admitted.

13 (State's Exhibit 39 and 75 admitted.)

14 BY MR. BURNS:

15 Q Now, I'm going to show you State's -- what's
16 been admitted as State's Exhibit 39. Do you recognize that
17 person?

18 A Yes, that's Aneka Grimes.

19 Q And is that a fair and accurate depiction of the
20 condition that she was in in the apartment prior to be --
21 being removed?

22 A She was clothed, but yes.

23 Q And did you notice anything about her condition
24 when you were in the apartment?

25 A Yes. I noticed that she had multiple stab

1 wounds.

2 Q And I just want to jump back a little bit. When
3 you first witnessed this -- this -- this physical -- the
4 defendant stabbing Aneka, do you see Aneka doing anything
5 aggressive?

6 A No. The only thing that I observed her doing is
7 attempting to get away or as what I perceived as that. There
8 was no motion as far as aggressiveness, it was all defensive.

9 Q Did you hear her saying anything aggressive?

10 A No.

11 Q Did you see her doing anything with her arms?

12 A Yeah. She was actually -- she was -- what
13 appeared to me was her trying to push the male off of her.

14 Q Okay. Officer, in your -- how long have you
15 been an officer?

16 A Five and a half years.

17 Q Safe to say that you've been called on to
18 respond to situations involving physical violence?

19 A Yes.

20 Q And would you describe this at all as a mutual
21 struggle?

22 A No.

23 Q Now at some point is the defendant taken
24 somewhere?

25 A Yes. After we were able to put him into

1 handcuffs and make sure that the area was safe, we took him
2 outside.

3 MR. BURNS: Your Honor, may I approach the witness?

4 THE COURT: Of course.

5 BY MR. BURNS:

6 Q I'm showing you what has been marked as State's
7 proposed Exhibits 70 and 71. Do you recognize those and what
8 they depict?

9 A Yes, that's Bennett Grimes.

10 Q And are State proposed Exhibits 70 and 71 fair
11 and accurate depictions of Bennett Grimes as he appeared on
12 that evening?

13 A Yes.

14 MR. BURNS: Your Honor, at this time I'd move for
15 admission of State's proposed Exhibits 70 and 71.

16 MR. HILLMAN: No objection.

17 THE COURT: They're admitted.

18 (State's Exhibit 70 and 71 admitted.)

19 BY MR. BURNS:

20 Q Did you notice anything about -- and just to
21 back up a little bit too. When you see the defendant stabbing
22 Aneka Grimes, do you notice, does he have any kind of glove on
23 his hand or anything like that?

24 A No.

25 Q Okay. So he's just using his bare hand to stab

1 her?

2 A Yes.

3 Q Thanks. Do you notice if the defendant has any
4 injuries to his body?

5 A At the time that I put him into handcuffs I
6 noticed that there was quite a bit of blood from his hand.
7 Didn't know exactly if it was from him or from Aneka --

8 Q Okay. And do you, go ahead., I interrupted
9 you.

10 A By the time that we got him out to our patrol
11 vehicle, I noticed that he had a cut on his right hand.

12 Q And are you able to say whether that was the
13 same hand he was stabbing Aneka with?

14 A Yes, it was.

15 Q Okay. And do you recall which finger that was
16 on?

17 A It was the index finger.

18 Q And just published what's been admitted as
19 State's Exhibit 70. Do you recognize that?

20 A Yes.

21 Q And who is that?

22 A Bennett Grimes.

23 Q Okay. And as to 71 as well?

24 A Yes.

25 Q Now, do you at some point have -- well, let's

1 talk a little bit more about the defendant. What's his
2 demeanor at the time, let's say in the aftermath of the
3 stabbing?

4 A In the aftermath of the stabbing he was calm,
5 cold, no expressions.

6 Q Okay. Now, at some point do you actually -- do
7 you -- do you find out where the knife is at some point?

8 A Yes, I do.

9 Q Okay. And do you recall where it was?

10 A Yes. It actually landed on the -- I guess it
11 would just be on the long wall of the living room right
12 underneath the pictures.

13 Q Now, I'm going to show you what has been marked
14 has State's proposed Exhibits 23 and 29. Just take a look at
15 those and let me know if you recognize them.

16 A Yes.

17 Q And as to number 23, what -- what is that?

18 A It is the knife that was recovered at the scene.

19 Q Okay. And do you see anything else in that
20 picture?

21 A There's blood, there's the hairpiece, yeah, and
22 a remote.

23 Q Okay. And is that a fair and accurate depiction
24 of the location of where the stabbing took place?

25 A Yes.

1 Q And is State's proposed Exhibit -- and that was
2 in reference to State's proposed Exhibit 23. State's proposed
3 Exhibit 29, is that a fair and accurate depiction of the knife
4 that you saw defendant Bennett Grimes use to stab Aneka on
5 that day?

6 A Yes.

7 MR. BURNS: Your Honor, at this time I'd move for
8 admission of State's proposed Exhibits 23 and 29.

9 MR. HILLMAN: No objection.

10 THE COURT: They're admitted.

11 (State's Exhibit 23 and 29 admitted.)

12 BY MR. BURNS:

13 Q Okay. I'll just publish them for the jury. And
14 is that -- in State's -- what's been admitted as State's
15 Exhibit 23, does that depict the area where the stabbing was
16 occurring?

17 A Yes, it does.

18 Q And is that also the area where you ended up
19 taking Mr. -- the defendant, Mr. Grimes, into custody?

20 A Yes.

21 Q And what's been admitted as State's Exhibit 29,
22 is that the location of the knife after this was all
23 happening?

24 A Yes.

25 Q And do you see some apparent blood on some

1 furniture in that picture?

2 A Yes, I do.

3 MR. BURNS: Court's indulgence. Your Honor, at this
4 time I'll pass the witness.

5 THE COURT: Cross-examination.

6 MR. HILLMAN: Thank you, Judge.

7 CROSS-EXAMINATION

8 BY MR. HILLMAN:

9 Q Good afternoon, Officer Hoffman.

10 A Good afternoon.

11 MR. HILLMAN: I have an exhibit, Your Honor.

12 THE COURT: Okay.

13 MR. HILLMAN: I'm going to ask your clerk if you have
14 a colored pen I can borrow. I forgot to bring mine.

15 THE COURT: Sure.

16 MR. HILLMAN: May I approach, Judge?

17 THE COURT: You may.

18 BY MR. HILLMAN:

19 Q Office Hoffman, I'm going to show you what's
20 been marked as Defendant's proposed Exhibit A. Does that
21 accurately depict the floor plan of that apartment?

22 A I never made it into any of the bedrooms, but as
23 far as the living room, entry, dining room, patio, yes.

24 Q Okay.

25 MR. HILLMAN: Judge, I would like to have him mark

1 this, so I move for its admission.

2 THE COURT: Any objection?

3 MS. BOTEHO: No objection, Your Honor.

4 THE COURT: It's admitted.

5 (Defendant's Exhibit A admitted.)

6 MR. HILLMAN: And --

7 THE COURT: You're probably going to have to bring
8 that out in front of the screen. Is that A, Mr. Hillman? Do
9 you have A?

10 MR. HILLMAN: This is A.

11 THE COURT: Okay. A is admitted.

12 MR. HILLMAN: And I'm wondering how I -- do you --

13 THE COURT: Do you want him to step down?

14 MR. HILLMAN: That probably would be best if the jury
15 can see that.

16 THE COURT: You want -- Officer, I think he wants you
17 to step down so you can -- in the front of the jury panel.

18 BY MR. HILLMAN:

19 Q What I'd like for you to do, if you would,
20 please, is take this marker and put an X where you were
21 standing outside on the patio.

22 A (Witness complies)

23 Q And about how long were you standing there
24 before you jumped?

25 A About a minute, minute and a half.

1 Q Okay. And before you approached the patio, how
2 long had you been in the parking lot talking with the other
3 officers?

4 A Roughly about the same time.

5 Q Okay. So two or three minutes before you made
6 it to the edge of the patio; is that right?

7 A Wait. One more time?

8 Q About two or three minutes from the time you
9 arrived at the scene until you approached the patio; is that
10 fair?

11 A Well, about a minute or two to approach the
12 patio and then another a minute while I was standing there
13 before I hopped over.

14 Q And at some point in time Stephanie Newman came
15 out and talked to you; is that right?

16 A That's correct.

17 Q And about how long did that conversation last?

18 A Thirty seconds.

19 Q Very brief?

20 A Yeah, very brief.

21 Q Okay. And -- but after you talked to Stephanie,
22 did she go back inside?

23 A Yes, she did.

24 Q And how long was she inside again before you
25 jumped over the patio?

1 A Brief, 30 seconds to a minute.

2 Q Okay. And I believe you stated that you heard a
3 female say ouch; is that correct?

4 A That is correct.

5 Q Is that what spurred you to jump over the patio
6 and -- excuse me, the patio wall into the -- into the
7 apartment?

8 A Yes, it is.

9 Q Okay. And if you could mark -- just draw a line
10 to where -- to show us your path from jumping over the patio,
11 through the door, and over to where the altercation was taking
12 place.

13 A I jumped over right here and made entry through
14 here. The table was right here --

15 Q And that's a rectangle you've drawn right below
16 dining room, correct?

17 A Yes. After the dining room table I came over to
18 the right side of the walkway where I had a visual of all
19 three subjects. And then right here is ultimately where I
20 made contact with Bennett Grimes.

21 Q Okay. Would you draw or write an S where you
22 saw Stephanie Newman when you came in?

23 A (Witness complies)

24 Q And an A for where you saw Aneka Grimes?

25 A (Witness complies)

1 Q And a B for where you saw Bennett Grimes.

2 A (Witness complies)

3 Q Okay. Now, is it safe to assume that when you
4 entered the apartment you were moving quickly?

5 A I was definitely getting in there to figure out
6 what was going on, what kind of situation it was.

7 Q So not sprinting, but faster than a walk?

8 A Yes.

9 Q And did you stop at any time or did you continue
10 to move the entire time until you tackled Mr. Grimes?

11 A I tactically entered through the patio, unknown
12 what was going on at that point. Tactically moved to the
13 right side of the hallway or the little stretch right here
14 where I observed all three subjects. I then observed Bennett
15 Grimes have Aneka in a headlock or what appeared to be a
16 headlock and doing a punching motion.

17 Q But my question is, you didn't stop, you
18 continued to move?

19 A Yes.

20 Q Okay. I would also like you to mark with a G
21 where you and Bennett ended up after you tackled him.

22 A The door was ultimately closed, in line so the
23 door was closed.

24 Q Okay.

25 A And we ended up right here.

1 Q Is that -- that figure shows the door open?

2 A Correct.

3 Q Okay. About how long do you think it took from
4 the time you jumped into the patio until you physically made
5 contact with Bennett Grimes?

6 A Matter of roughly 30 seconds to a minute. Felt
7 like a lot longer, but I know it wasn't.

8 Q And can you -- if you could resume your seat,
9 please? Thank you. I'm looking for 26. Okay, I'm looking
10 for -- it's been admitted.

11 MR. HILLMAN: Mr. Burns, do you have 26 or the -- is
12 that what these are?

13 MR. BURNS: It would be in there.

14 MR. HILLMAN: Okay. Court's indulgence, Your Honor.

15 THE COURT: Sure.

16 BY MR. HILLMAN:

17 Q Sorry, ladies and gentlemen. Okay. Now, that
18 I'm going to show this I'll probably move this away from the
19 screen. Officer, I'd like to show you what's been marked as
20 State's 26 and admitted. Is it fair to say that this photo
21 was taken after everything was finished?

22 A Yes.

23 Q And it's safe to assume that besides you and
24 Bennett and Aneka and Stephanie and the other two officers,
25 there were other people who made entry into this apartment as

1 well; is that correct?

2 A Can you restate the question?

3 Q Did other people come into this apartment? For
4 example, ambulance people?

5 A They were at the door. Ambulance was at the
6 door and the crime scene analyst was inside the apartment as
7 well.

8 Q Do you remember about how many people were at
9 the scene?

10 A Outside of the scene?

11 Q At the -- yes, outside of the scene to start
12 with.

13 A Off the top of my head, we had -- there was a
14 few detectives, my watch commander, my lieutenant, my sergeant
15 and a few other officers.

16 Q Okay. And those were just police officers,
17 correct?

18 A Correct.

19 Q And there were ambulance personnel that also
20 responded; is that correct?

21 A And fire, yes.

22 Q And fire as well?

23 A Yes.

24 Q Do you remember who went into the apartment or
25 who did not go into the apartment?

1 A No. I -- I don't know who ultimately made entry
2 or not.

3 Q Now, I didn't have a real good view of when Mr.
4 Burns had you exhibit the -- what you have described as a
5 stabbing motion.

6 MR. HILLMAN: Do you have your -- your plastic knife?

7 MR. BURNS: Yes.

8 BY MR. HILLMAN:

9 Q I'd wonder if you'd try again with me and show
10 me.

11 A Had it in his hand like so and his left arm
12 cupped around, her bent over and a short jabbing motion like
13 this.

14 Q Okay. Now, thank you. Is it safe to say that
15 in that motion there was stabbing added into my chest area?

16 A Yes.

17 Q And that's pretty much what you saw?

18 A Yes.

19 Q Do you remember testifying at the preliminary
20 hearing in this matter on August 25th of last year?

21 A I remember testifying, but I'm not sure of the
22 exact questions or anything.

23 Q Okay. And would it be inconsistent with your
24 memory to say that at that hearing you testified that it
25 appeared he was punching her in the face?

1 A It did appear to be, yes.

2 Q Okay.

3 A From the rear.

4 Q And I'm sorry to do this like this, something I
5 forgot. No, that's okay. You have marked on this exhibit
6 here and I'll just stand right here if that's okay.

7 A Not a problem.

8 Q That the B is Bennett, the A is Aneka, the S is
9 Stephanie; is that correct?

10 A That's correct.

11 Q And when you first saw them how -- how was
12 Stephanie standing towards you?

13 A Stephanie had her back towards me.

14 Q And how about Aneka?

15 A Aneka also had her back towards me.

16 Q And Bennett had his face towards you?

17 A That is correct.

18 Q But this is where they were standing; is that
19 correct?

20 A That's correct.

21 Q And so then when you tackled Bennett, you both
22 ended up back against this door?

23 A That's correct.

24 Q Next to the coat closet?

25 A Yes.

1 MR. HILLMAN: Okay. I have no further questions,
2 Judge.

3 THE COURT: Any redirect?

4 MR. BURNS: Yes, Your Honor.

5 REDIRECT EXAMINATION

6 BY MR. BURNS:

7 Q Officer Hoffman, when you respond to a call like
8 this, do you have to account over the radio for where you are
9 and what you're doing?

10 A Typically, yes. It's always better to give out
11 your position and what's going on throughout the incident.

12 Q And is some kind of record made of where -- of
13 when you check in with dispatch?

14 A Yes.

15 Q Okay. And do you recall the very precise moment
16 and minutes and seconds when you would have announced your
17 presence at the -- at Aneka Grimes' residence to dispatch?

18 A One more time? I'm sorry.

19 Q Do you recall the very specific time, like the
20 hour, the minute, seconds, when you called in and said I'm --
21 I'm at this address?

22 A I don't know. I --

23 Q If I showed you a copy of the computer assisted
24 dispatch, would that refresh your recollection as to when you
25 first told dispatch you were arriving?

1 A Yes.

2 Q Okay.

3 MR. BURNS: Your Honor, may I approach the witness?

4 THE COURT: You may. Has it been marked?

5 MR. BURNS: Your Honor, I'm just going to refresh his
6 recollection with it.

7 THE COURT: Okay.

8 MR. HILLMAN: That's fine, Judge.

9 THE COURT: Okay.

10 A Okay.

11 BY MR. BURNS:

12 Q Do you remember now when you first checked in
13 with dispatch?

14 A It was roughly 1901 or 1901.

15 Q And the other officers who are with you, they're
16 also checking in?

17 A Correct.

18 Q Okay. And once you're in the apartment, do you
19 do anything to cause a medical response to come to the scene?

20 A Yeah, I called for an ambulance.

21 Q And -- I'm sorry, that was 1901?

22 A When I -- when I arrived.

23 Q Okay. And that's military time?

24 A Yes.

25 Q So that would be 7:01 p.m.?

1 A 7:01 p.m.

2 Q Okay. Do you recall the precise hour and
3 minutes when you requested a medical response to Aneka Grimes'
4 house?

5 A Yes, 1904.

6 Q And what was the nature of your advisement to
7 dispatch about the need for medical response?

8 A She had numerous stab wounds, one that was to
9 her neck jugular area.

10 Q And so the time between when you tell dispatch
11 you're there and a time when you request an ambulance is how
12 many minutes?

13 A Three minutes.

14 Q Now, you were asked -- Officer, you were asked
15 about your preliminary hearing transcript -- your preliminary
16 hearing testimony as to whether it's possible that, you know,
17 where the -- where the punching motion was going. Do you
18 remember that --

19 A Yes, I do.

20 Q -- Mr. Hillman asking you that? Did you --

21 MR. HILLMAN: Judge, I object. I think that
22 mischaracterizes what it was. It wasn't possible it's -- it's
23 what he saw --

24 THE COURT: Okay. You know what? Why don't you
25 ask --

1 MR. HILLMAN: -- and what he testified to.

2 THE COURT: Officer, did the prosecutor
3 mischaracterize your testimony or was that accurate?

4 THE WITNESS: I don't really understand.

5 THE COURT: Okay.

6 MR. BURNS: Your Honor --

7 THE COURT: Okay. I'm just going to have the
8 prosecutor ask the question again.

9 BY MR. BURNS:

10 Q Yeah, I'm sorry. That was -- that was probably
11 a bad question. Did -- you remember the question about your
12 preliminary hearing --

13 A Yes.

14 Q -- testimony? Okay. Did you -- in connection
15 -- did you write some reports after this?

16 A Yes, I did.

17 Q Okay. Did you prepare what's called a domestic
18 battery report?

19 A Yes, I did.

20 Q And part of that report, do you diagram what's
21 going on?

22 A Yes, I do.

23 Q Okay. And do you recall -- and as part of that
24 to diagram what's happened to the victim of the battery?

25 A Yes.

1 Q And did you -- did you actually diagram where --
2 where Aneka Grimes had been stabbed?

3 A As best as I could.

4 Q And do you recall -- so on that document, is
5 there a picture of -- of a human form?

6 A Yes, there is.

7 Q And do you make marks where the person was
8 injured?

9 A Yes, I do.

10 Q And do you recall where you made marks on that
11 report?

12 A I know that I made one on the neck jugular area
13 and I'm not -- I know it's to the left side, but I don't know
14 how many marks I ultimately marked or anything.

15 Q Okay.

16 A But I know that there was multiple.

17 Q So you remember just the neck area?

18 A Yeah, that was my biggest concern.

19 Q Now, Officer, if I showed you a copy of your
20 domestic battery report, would it refresh your recollection as
21 to all the areas you indicated were injured?

22 A Yes.

23 Q Okay. Officer Hoffman, where did you indicate
24 that there were injuries?

25 A I had indicated on her left arm, her right arm,

1 her chest, neck and head area.

2 MR. BURNS: Your Honor, I'll pass the witness.

3 THE COURT: Any recross?

4 MR. HILLMAN: Few questions, Judge.

5 RECROSS-EXAMINATION

6 BY MR. HILLMAN:

7 Q Officer Hoffman, I'm drawing your attention
8 again to your battered domestic report.

9 A Yes, sir.

10 Q There are two figures on that report; is that
11 correct?

12 A That is correct.

13 Q One for the alleged victim and one for the
14 alleged suspect; is that correct?

15 A That is correct.

16 Q And on the alleged suspect you also marked a
17 three and an eight on the hand of Bennett Grimes; is that
18 correct? Do you recall?

19 A I -- I didn't look at that side of it.

20 MR. HILLMAN: May I approach?

21 THE COURT: You may.

22 BY MR. HILLMAN:

23 Q Would it refresh your recollection?

24 A Yes, it would.

25 Q There you go.

1 A Yes.

2 Q And that shows a three and an eight for the left
3 hand; is that correct? Would you like to look at it again?

4 A Yeah. It does show on his left hand, yes.

5 Q But it was his right hand; is that correct?

6 A It -- yes, it is on his right hand.

7 Q And the -- the numbers are important because
8 there's a little key underneath that tells the reader of the
9 report what that means; is that right?

10 A That's correct.

11 Q And for number three it's for bleeding; is that
12 right?

13 A Yes.

14 Q And number eight you have marked cut to head,
15 neck or torso; is that correct?

16 A I believe I selected other for hand.

17 MR. HILLMAN: Okay. No further questions, Judge.

18 THE COURT: Okay. Thank you very much for your
19 testimony, Officer Hoffman. You may step down, you are
20 excused from your subpoena. Thank you for being here.

21 You can call your next witness. Do you have a short
22 one?

23 MS. BOTELHO: Another officer, relatively --

24 THE COURT: Okay.

25 MS. BOTELHO: -- short.

1 THE COURT: All right. You can put the next officer
2 on.

3 MS. BOTELHO: Your Honor, the state calls Officer
4 Michelle Tavaréz.

5 MICHELLE TAVAREZ, STATE'S WITNESS, SWORN

6 THE CLERK: Thank you. Please be seated. And could
7 you please state your full name, spelling your first and last
8 name for the record?

9 THE WITNESS: Absolutely. Michelle Tavaréz,
10 M-i-c-h-e-l-l-e, T-a-v-a-r-e-z.

11 THE CLERK: Thank you.

12 MS. BOTELHO: May I, Your Honor.

13 THE COURT: You may proceed.

14 MS. BOTELHO: Thank you.

15 DIRECT EXAMINATION

16 BY MS. BOTELHO:

17 Q Ms. Tavaréz, how are you employed?

18 A I work for the Las Vegas Metro Police Department
19 as a detective.

20 Q Okay. And what division are you currently a
21 detective at?

22 A I currently work in Crimes Against Youth and
23 Family, missing persons detail.

24 Q Okay. How long have you been with Metro total?

25 A I've been with the department since 2002. I've

1 been a police officer for six years.

2 Q Okay. And how long as a detective?

3 A I've been a detective for two weeks.

4 Q Two weeks?

5 A Two weeks.

6 Q All right. Turning your attention to July,
7 2011, do you recall where you were assigned at that time?

8 A Yes, ma'am. I was assigned to the Enterprise
9 Area Command Problem Solving Unit.

10 Q All right. Specifically, now turning your
11 attention to about 6:45 p.m., were you working in a capacity
12 as a problem solving unit officer at that time?

13 A Yes, ma'am.

14 Q Okay. As a part of a problem solving unit
15 officer, were you in -- dressed in uniform?

16 A No, ma'am. We wear plainclothes and then
17 typically we'll have some sort of identification. And that
18 day I happened to have a tactical vest on that said police on
19 the front.

20 Q Okay. Were you in a marked patrol vehicle, the
21 one with lights and sirens?

22 A No, ma'am. We have lights and sirens but not
23 that you can see until we turn them on.

24 Q Okay. Do you recall where you were or what area
25 you were at at about 6:45 p.m.?

1 A Yes, ma'am. I was near Desert Inn and
2 Durango-ish.

3 Q Okay. So you're in your patrol -- or your car,
4 your police car. Do you recall hearing about a call at 9325
5 West Desert Inn?

6 A Yes, ma'am. When the call came out over the
7 radio and I heard dispatch announce the address, I was passing
8 by that address at the same time that she announced it.

9 Q Okay. So you're passing by. Do you actually --
10 do you actually pass the address?

11 A Yes. I was -- I was driving by and when I heard
12 her say it, I turned and I looked and saw the address on the
13 sign for the apartment complex at the same time that she
14 announced it. So as I continued past I heard what the call
15 was, I made a U-turn and came back to it.

16 Q And what was the nature of that call?

17 A It was a domestic violence call between a male
18 and a female.

19 Q Okay. And that 9325 West Desert Inn, that's
20 here in Las Vegas, Clark County, Nevada; is that right,
21 Officer?

22 A Yes, ma'am.

23 Q Okay. So you hear about a domestic violence
24 call, you see the address. What do you do, Officer or
25 Detective?

1 A At that time I decided, because I was so near to
2 the call and domestic violence calls can be so volatile, I
3 thought it would be in my best interest to stop and assist the
4 patrol officers that would be assigned to the call. So at the
5 time I entered the apartment complex and searched for the
6 specific building and apartment number that dispatch had
7 broadcast, I wasn't able to find it and I noticed that the
8 building and the apartment didn't correspond. So I was able
9 to find the correct address based upon the apartment number
10 she had given and update the building address in the event for
11 the other officers.

12 Q And so you're giving out information as you are
13 getting it?

14 A Correct.

15 Q Okay. And confirming information as well?

16 A Correct.

17 Q Okay. Detective, at this point, this 417, at
18 least based on what you knew from dispatch, was this a
19 priority call?

20 A It was not broadcast as a priority call.
21 Typically, when we broadcast a priority zero call they call
22 it, there's an alert tone that goes out before that so that
23 all officers know that they should listen to the radio in case
24 they're close. And those are typically calls that are, you
25 know, a burglary in progress or a very volatile situation

1 where you need to get an officer there immediately. This came
2 out as a priority one, which is typically still an important
3 call but not necessarily one we have to get an officer to
4 immediately.

5 Q Okay. So you decide to go, you hear it. Do you
6 eventually find apartment number 173?

7 A Yes, ma'am.

8 Q And what type of vehicle were you driving at
9 that time?

10 A It was a white -- I believe it was a Dodge
11 Charger.

12 Q Okay.

13 A Plain car.

14 Q All right. So what do you do once you find the
15 apartment?

16 A As I pull in I could hear yelling from the
17 apartment. I pulled in and I parked near where the apartment
18 was located by the balcony.

19 Q Okay. I'm going to show you what's already been
20 admitted into evidence as State's Exhibit number 7.

21 MS. BOTELHO: Permission to publish for this witness,
22 Your Honor?

23 THE COURT: You may.

24 MS. BOTELHO: Thank you.

25 BY MS. BOTELHO:

1 Q All right, Detective. Do you recognize what's
2 depicted in this photo?

3 A Yes, ma'am. That's the parking lot of the
4 apartment complex.

5 Q All right. You said you were driving a white
6 Charger, you believe. Do you see your vehicle in this
7 particular photo?

8 A Yes, ma'am.

9 Q Okay. Could you please draw a circle? You can
10 use your screen, it's like Monday night football --

11 A Okay.

12 Q -- you can just make a, you know, a circle.
13 Okay. And could you please draw an X towards the direction of
14 where apartment number 173 would be in this particular photo?

15 A Yes. The balcony is here and then the door is
16 over here.

17 Q Okay. So once you park your vehicle, Officer,
18 do you hear or observe anything with regard to apartment
19 number 173?

20 A Yes, ma'am. I could hear yelling and arguing.

21 Q Okay. At this point, could you tell us the
22 nature of the yelling or the argument that you were hearing?

23 A Yes. It was clearly a male and a female
24 arguing. It sounded as if any -- any domestic violence
25 argument, it didn't sound unusual; raised voices, obviously in

1 disagreements. There -- but there was nothing unusual about
2 the argument per se. It just sounded like a standard domestic
3 violence argument when you disagree with another person and
4 your voice is raised.

5 Q Okay. Did you make contact at the door or did
6 you go in and try to make contact with individuals in that
7 apartment?

8 A No, ma'am, not originally. We're trained that
9 because domestic violence calls can be so volatile that if we
10 have the ability to wait for a backup unit, that we should
11 wait for a backup unit.

12 Q And you did that?

13 A Yes, ma'am. I was in a plain car and not in
14 uniform. Because of that I felt like I wouldn't tip -- tip
15 anybody off to the fact that the police had arrived yet.

16 Q Okay. And at some point, did additional units
17 arrive?

18 A Yes, ma'am.

19 Q Were these additional units in marked patrol
20 vehicles?

21 A Yes, ma'am.

22 Q And were the officers in uniform?

23 A Yes, ma'am.

24 Q In fact, looking at State's Exhibit Number 7,
25 can you actually see -- can you actually see some marked

1 patrol vehicles in this particular photo?

2 A Yes, ma'am.

3 Q And would that be kind of like here and here?

4 A Yes, ma'am.

5 Q Okay. Do you recall the names of the officers
6 who arrived?

7 A Yes. That was Officer Bobby Hoffman and Officer
8 Brad Gallup.

9 Q Okay. And Bobby Hoffman's the officer that just
10 left as you were coming in; is that right?

11 A Yes, ma'am.

12 Q Okay. Upon the arrival of Officers Gallup and
13 Hoffman, what did you do?

14 A The three of us got together and we formulated
15 our -- our entry plan, as we like to call it. Had a very
16 brief conversation, maybe only about 15, 20 seconds about the
17 call itself and the -- where the apartment complex was, what I
18 had heard prior to their arrival and where the door of the
19 apartment complex was.

20 Q Okay. So it's kind of a meet, let's figure out
21 what we're going to do planning session?

22 A Yes, ma'am.

23 Q But brief?

24 A Very brief.

25 Q I'm going to show you, with the Court's

1 permission, what's already been admitted as State's Exhibit
2 Number 1.

3 MS. BOTELHO: May I publish, Your Honor?

4 THE COURT: You may.

5 MS. BOTELHO: Thank you.

6 BY MS. BOTELHO:

7 Q Can you show the ladies and gentlemen of the
8 jury where you met with the other officers to discuss your
9 entry?

10 A Yes. It was down here close to where the actual
11 cars -- or the vehicles were parked and not all the way up
12 towards the door of the apartment complex yet.

13 Q Okay. At some point while the three of you
14 were, you know, in that where you drew the arrows, do you make
15 contact with anyone from apartment number 173?

16 A Right after our brief conversation had happened,
17 just barely as we had started to move, a female came out on
18 the balcony and told us, she said that the male was inside and
19 that he would try to run when we arrived.

20 Q Okay. And I'm going to show you what's already
21 been admitted as State's Exhibit Number 75.

22 MS. BOTELHO: May I publish, Your Honor?

23 THE COURT: You may.

24 BY MS. BOTELHO:

25 Q Do you recognize this individual, Officer?

1 A Yes, ma'am.

2 Q Or Detective. Who is this person?

3 A That was the witness that came in on the
4 balcony, the victim's mother.

5 Q Okay. All right. You made contact with the
6 victim's mother. Where are you at this point?

7 A When we made contact, we were -- just had
8 started walking up, so I'd say we were about here.

9 Q Okay. And by we do you mean also Officers
10 Gallup and Hoffman?

11 A Yes.

12 Q Okay. On your way to walk up to where the
13 victim's mother was located, did anything occur?

14 A As -- after she came out on the balcony and told
15 us that he would run, we then decided amongst the three of us
16 that somebody should stay by the balcony. That way we had all
17 the exit points covered for the residents. So we decided that
18 Officer Hoffman would stay near the balcony and Officer Gallup
19 and myself would walk up towards the front door and knock on
20 the door.

21 Q Okay. All right. As you're walking up to the
22 balcony -- or excuse me, as you're walking up to the front
23 door, where is the front door again located in this particular
24 picture?

25 A You can't actually see the front door in this

1 picture, but it's located around here. If you continued
2 walking this way, the front door would be around there.

3 Q And can you actually make a mark --

4 A Sure.

5 Q -- Detective, because the jurors can't
6 necessarily see.

7 A I'm sorry, yes. You have to keep going this way
8 and then there would be the front door.

9 Q Okay. Do you make it to the front door?

10 A I don't initially make it. I mean, eventually I
11 do get to the front door. But prior to me getting to the
12 front door, we heard very loud frantic screams coming from
13 inside the apartment.

14 Q And how did you respond to that?

15 A I was almost to the door, I was probably about
16 here when I heard the screaming. Officer Hoffman was still by
17 the balcony and Officer Gallup was just behind me, probably
18 about here, maybe a little bit closer.

19 Q And now you -- you described the screaming as
20 frantic?

21 A Yes, ma'am.

22 Q So is it different from the -- the yelling that
23 you had heard previously?

24 A Completely different. You could tell
25 immediately that something was wrong and that somebody was in

1 big trouble.

2 Q Okay.

3 A We knew we had to act right then.

4 Q Okay. So how did you act?

5 A I -- because I was so close to the front door, I
6 ran to the front door and immediately started kicking the
7 front door. I didn't know it until I glanced behind me, but
8 Officer Gallup had turned around and gone back towards the
9 balcony where Officer Hoffman had originally jumped the
10 balcony when he heard the screams. I kicked the front door, I
11 kicked it once and it didn't budge. I kicked it a second time
12 and it also didn't budge, so I -- I gave it one more shot and
13 that's when I heard someone on the other side of the front
14 door yell drop the knife. At that point, because the door
15 wasn't moving and I heard someone yell drop the knife, I knew
16 I needed to get inside the apartment so I turned around and I
17 came back and I also jumped the balcony to get inside the
18 apartment.

19 Q Okay. And let me stop you right there. Do you
20 -- do you recognize the -- the voice of the individual who's
21 -- who yelled drop the knife?

22 A I think it was Officer Hoffman --

23 Q Okay.

24 A -- who yelled that.

25 Q All right.

1 MS. BOTELHO: Your Honor, may I approach with State's
2 proposed Exhibit's 15 and 16?

3 THE COURT: You may.

4 BY MS. BOTELHO:

5 Q Detective, I'm showing you what's been
6 previously marked as State's proposed Exhibits 15 and 16. Do
7 you recognize what's depicted in these photos?

8 A Yes, ma'am, that's the front door.

9 Q Okay. Do these photographs fairly and
10 accurately depict the front door of apartment 173 as you
11 recall from June -- or excuse me, July 22nd, 2011?

12 A Yes, ma'am.

13 MS. BOTELHO: Your Honor, I move to admit State's
14 proposed Exhibits 15 and 16 into evidence.

15 MR. HILLMAN: No objection.

16 THE COURT: They're admitted.

17 (State's Exhibit 15 and 16 admitted.)

18 MS. BOTELHO: Thank you. Permission to publish, Your
19 Honor?

20 THE COURT: You may.

21 MS. BOTELHO: Thank you.

22 BY MS. BOTELHO:

23 Q State's Exhibit Number 15, Detective. So is
24 this the door that you're trying to kick?

25 A Yes, ma'am.

1 Q And you heard that voice that said drop the
2 knife from the opposite side of this door?

3 A Correct, from inside of the apartment.

4 Q I'm going to show you State's Exhibit Number 16.
5 Do you recognize what's depicted in this photo?

6 A Yes, that's the side of the door.

7 Q Okay. And you said you kicked it three times?

8 A Yes, ma'am.

9 Q Okay. Do you actually see some damage to the
10 door?

11 A Yes, ma'am. I can see some -- some damage right
12 by the door lock.

13 Q Okay. Is it fair to say -- it might not come
14 across on the -- on the actual projector, but there's kind of
15 a line or a -- a division in the wood right here and right
16 here?

17 A Yes, ma'am.

18 Q So you -- you did make some leeway as far as
19 trying to get into the door?

20 A I tried.

21 Q All right. Once you abandoned trying to kick
22 the door open, I'm going to show you State's Exhibit Number 1.
23 You just indicated that you went back around the balcony?

24 A Yes, ma'am.

25 Q And made entry that way as well?

1 A Correct.

2 Q And Detective, please tell the ladies and
3 gentlemen of the grand jury what you saw upon making entry
4 into that apartment?

5 THE COURT: We're not the grand jury.

6 MS. BOTELHO: I'm sorry.

7 THE COURT: That's okay.

8 BY MS. BOTELHO:

9 Q Can you please tell the ladies and gentlemen of
10 this jury what you saw upon making entrance?

11 A Yes, ma'am. After I jumped the balcony and made
12 entry through the siding glass door, I observed the victim
13 laying on the ground near the front door of the apartment
14 complex -- or I'm sorry, the front door of the apartment with
15 her head in the lap of the witness that had initially come out
16 and told us that the suspect would run. Just beyond them, in
17 the little alcove right up against the front door, I observed
18 Officer Hoffman and Officer Gallup laying on top of the
19 suspect.

20 Q Let me stop you right there, Detective.

21 A Yes, ma'am.

22 MS. BOTELHO: With the Court's permission, may I
23 publish what's already admitted as State's Exhibit 26?

24 THE COURT: You may.

25 MS. BOTELHO: Thank you.

1 BY MS. BOTELHO:

2 Q And this might assist you in describing to the
3 jurors what it is that you saw.

4 A Yes, ma'am. The victim and the -- and the
5 witness were laying right here and the officers, both
6 officers, were up against this door with the suspect on the
7 floor right in this little alcove.

8 Q And so you make entry, you see this going on.
9 What do you do?

10 A The first thing I did was come over to check on
11 the victim and assist the officers. Because the suspect was
12 not in custody yet, I wanted to make sure that we could get
13 him in custody. I could tell that the victim was in the care
14 of her mother so I -- well, I didn't know it was her mother at
15 the time, but so I allowed them to stay off to the side while
16 we attempted to put handcuffs on the suspect.

17 Q Eventually were you all successful in getting
18 the suspect into handcuffs?

19 A Yes, ma'am. It took -- we -- we didn't do it
20 immediately because we were not sure where the knife was.
21 Upon initial entry from me I was still hearing Officer Hoffman
22 say, drop the knife, where's the knife. So when I made entry
23 and I helped get in and assist them, I was able to look around
24 and I saw the knife laying off to the side of the officers.
25 So I was able to tell Officer Hoffman and Gallup he doesn't

1 have the knife, he doesn't have the knife. So it was then
2 that we decided to put him in handcuffs.

3 Q Okay. And I'm going to --

4 MS. BOTELHO: Permission to publish already admitted
5 State's Exhibit 23?

6 THE COURT: You may.

7 BY MS. BOTELHO:

8 Q Do you see the knife that you were just talking
9 about in this particular photo, Detective?

10 A Yes, ma'am.

11 Q Could you please circle it?

12 A (Witness complies)

13 Q Thank you. And per your previous testimony,
14 this is where the officer and the defendant were kind of --

15 A Yes. Both -- both officers and the defendant
16 were over there when I came in.

17 Q All right. What happened next?

18 A After we placed handcuffs on the suspect, we
19 then opened the door and took the suspect outside. I went to
20 get a towel, which you can actually see in this picture. I
21 was able to grab a towel so that we could put it on the
22 victim's wounds. It was apparent that the victim was
23 bleeding, she had blood all over her and she had wounds to her
24 neck. I didn't know where the wounds were, but I wanted to
25 make sure that if they were in a place where they could

1 possibly -- she could bleed out quickly, that we wanted to get
2 pressure on the wounds as quickly as we could.

3 Q Okay. So who grabbed the towel?

4 A I did, ma'am.

5 Q Okay. And who -- did you give it to anyone?

6 A I placed it on the victim's neck and then I told
7 her mother to put pressure on that and not to let go until
8 medical arrived.

9 Q Did you eventually make contact with the
10 defendant again -- or excuse, me with the suspect again?

11 A Yes, ma'am. After I made sure that we had
12 pressure on the victim's wounds, I went outside to check with
13 my partners to make sure they were doing okay. We went out to
14 the patrol vehicles where we took the suspect, checked him
15 very quickly for weapons. Because there was a knife involved,
16 we wanted to make sure he didn't have any more weapons on him.
17 So we did a search for weapons, then called for medical for
18 him as well because he had a cut to his finger. So we wanted
19 to make sure that we got him medical.

20 Q Okay. Now, that suspect that you saw in the
21 apartment with the -- the lady that you made contact with in
22 the balcony --

23 A Yes, ma'am.

24 Q -- and also the suspect that was being held down
25 by Officers Hoffman and Gallup --

1 A Yes, ma'am.

2 Q -- do you see him here in court today?

3 A Yes, ma'am.

4 Q Could you please point to him and describe
5 something he's wearing?

6 A Sure. He is over here and he's wearing a nice
7 pink shirt like mine.

8 MS. BOTELHO: Your Honor, please let the record
9 reflect identification of the defendant.

10 THE COURT: So reflected.

11 MS. BOTELHO: Thank you. Permission to publish
12 already admitted State's Exhibits 71, 70 and 39, Your Honor.

13 THE COURT: Seventy-one, 70 and 39?

14 MS. BOTELHO: Yes, Your Honor.

15 THE COURT: Okay. You may.

16 BY MS. BOTELHO:

17 Q Exhibit Number 71, do you recognize this
18 individual?

19 A Yes, ma'am.

20 Q And who is this person?

21 A That was the suspect that we took into custody
22 that day.

23 Q And State's Exhibit 70, is that just a different
24 photo of the defendant?

25 A Yes, ma'am.

1 Q State's Exhibit 39, do you recognize that
2 individual?

3 A Yes, ma'am, that was the victim.

4 Q Was she the person that you put the towel on?

5 A Yes, ma'am.

6 MS. BOTELHO: Court's indulgence. Court's brief
7 indulgence, Your Honor. I apologize.

8 BY MS. BOTELHO:

9 Q While I'm looking for this one particular
10 picture that I want to show you, Detective, while you were
11 looking over at the victim and also her mother, you said she
12 had blood all over her but you could not tell where exactly
13 she had been hurt.

14 A Correct. I knew she had been injured, I didn't
15 know to what extent. But because there was a large amount of
16 blood, I assumed it to be pretty bad, which is why I wanted to
17 get the -- the injury from her neck is where I assumed most of
18 the blood was coming from and that's why I wanted to get a
19 towel on to her neck before anything could happen.

20 MS. BOTELHO: Your Honor, may I approach with what's
21 been previously marked as State's Exhibit Number 73?

22 THE COURT: You may.

23 MS. BOTELHO: Thank you.

24 BY MS. BOTELHO:

25 Q Detective, I'm going to show you State's

1 proposed Exhibit 73. Do you recognize this photo?

2 A Yes, I do.

3 Q And what is it a photo of?

4 A It looks like it's the cut to the suspect's
5 finger.

6 Q Does it fairly and accurately portray the
7 suspect's wound as you remember it?

8 A Yes, ma'am.

9 Q On July 22nd, 2011?

10 A Yes, ma'am.

11 MS. BOTELHO: I move for admission of State's 73,
12 Your Honor.

13 THE COURT: Any objection?

14 MR. HILLMAN: No, Judge.

15 THE COURT: It's admitted.

16 (State's Exhibit 73 admitted.)

17 MS. BOTELHO: May I publish, Your Honor?

18 THE COURT: You may.

19 BY MS. BOTELHO:

20 Q State's Exhibit 73. Could you please point out
21 to the jury where the suspect's -- or the defendant's wound
22 was?

23 A Yes, ma'am. You can see it, it's right here on
24 his pointer finger.

25 Q And to your knowledge, was that the only wound

1 he sustained?

2 A To my recollection after our initial cursory
3 search, yes, that's all I remember.

4 MS. BOTEHO: Thank you. Court's indulgence. I have
5 no further questions, Your Honor.

6 THE COURT: Cross-examination.

7 CROSS-EXAMINATION

8 BY MR. HILLMAN:

9 Q Good afternoon.

10 A Hello, sir.

11 Q Do you remember how long you were in the parking
12 lot before the other officers arrived?

13 A Only a couple of minutes, sir.

14 Q And these are just approximate times, I'm not
15 asking for minutes and seconds. Do you remember how long
16 after they arrived before you started moving towards the
17 apartment?

18 A Just probably 15 to 30 seconds.

19 Q And from the time you started moving, do you
20 remember how long it was until Hoffman jumped the rail?

21 A I don't know exactly when he jumped the rail
22 because I didn't watch him jump it, but it -- after we started
23 moving towards the front door, it was seconds before we knew
24 we needed to make entry into the apartment.

25 Q When you walked towards the door were you moving

1 slowly, fast? You weren't running, I don't imagine?

2 A No, sir. We used standard pace.

3 Q But you testified that you heard Officer Hoffman
4 say where's the knife?

5 A Yes, sir.

6 MR. HILLMAN: I have nothing else, Judge.

7 THE COURT: Any redirect?

8 MS. BOTELHO: No, Your Honor.

9 THE COURT: Thank you very much for your testimony
10 here today. You may step down, you are excused from your
11 subpoena.

12 THE WITNESS: Thank you, Your Honor.

13 THE COURT: Thank you for the testimony you gave this
14 jury panel.

15 At this time we are going to recess for lunch.

16 During this recess you are admonished not to talk or converse
17 amongst yourselves or with anyone else on any subject
18 connected with this trial or read, watch or listen to any
19 report of or commentary on the trial or any person connected
20 with this trial by any medium of information including,
21 without limitation, newspapers, television, Internet, radio or
22 form or express any opinion on any subject connected with this
23 trial until this case is finally submitted to you.

24 We'll start again at two, 2:00. Thank you very much.

25 (Court recessed at 12:47 p.m. until 2:00 p.m.)

1 (Outside the presence of the jury.)

2 THE COURT: You know, while we're waiting for the
3 jury -- we can start at 8:30 tomorrow, right? We're going to
4 start at 8:30 tomorrow, so I just want to make sure the
5 officers are okay with that. Okay, 8:30. Is everybody good
6 with that?

7 MS. BOTELHO: Yes, Your Honor.

8 MR. HILLMAN: Yes, Your Honor.

9 THE COURT: Okay. Thank you.

10 MS. BOTELHO: Your Honor, we have put together some
11 jury instructions. There are two batches because one has
12 specials with citations and one without.

13 THE COURT: Which one is the one with citations?

14 MS. BOTELHO: I'll have to look through it.

15 THE COURT: I don't want to brag or anything, but I'm
16 kind of to the point where I don't need citations.

17 MS. BOTELHO: Oh, yeah, we absolutely -- it's mostly
18 for Patrick and I.

19 THE COURT: Okay.

20 MS. BOTELHO: It's our notes.

21 MR. HILLMAN: Nadia's doing our jury instructions and
22 we'll have them for you tonight.

23 THE COURT: Okay.

24 MR. HILLMAN: She'll e-mail --

25 THE COURT: Just e-mail them to Pam.

1 MS. BOTELHO: And I'll e-mail to Pam as well so she
2 has it in Word.

3 THE COURT: Yeah. It's just Rochap, R-o-c-h-a-p and
4 then whatever comes after that.

5 MS. BOTELHO: Okay.

6 THE COURT: I'm sure Patrick has it memorized. What
7 is it after? What is -- what are all of our --

8 MS. BOTELHO: At Clark County Courts.

9 THE COURT: But what's the dot, dot what?

10 MR. BURNS: U.S.

11 THE COURT: Okay. Okay. You can bring the jury
12 panel in.

13 (Jury reconvened at 2:03 p.m.)

14 THE COURT: Do the parties stipulate to the presence
15 of the jury panel?

16 MS. BOTELHO: Yes, Your Honor.

17 MR. HILLMAN: Yes, Judge.

18 THE COURT: Okay. I do want to remind the ladies and
19 gentlemen of the jury panel, it's my understanding someone had
20 a question about whether the jury panel can ask questions.
21 Yes. As I instructed you yesterday, any member of the jury
22 panel is free to ask written questions of any witness, if you
23 so desire. And remember, the process is as soon as the
24 witness is done being questioned by both sides and I think you
25 probably know how it goes now, the State when they call

1 witnesses we do direct, cross, redirect and recross. So they
2 both get two chances at a witness and then at that time I turn
3 to the witness and I begin to excuse them from their subpoena.
4 That's when you should get my attention or that of the Court
5 Marshall and the Court Marshall will come get your written
6 question.

7 On your written question -- you write it out, put
8 your juror number and now your one through 13. So whatever
9 seat you're in, if you will just put on there juror number
10 one, eight, whatever it is. And that's important because any
11 questions become part of the record, so I mark them as a
12 Court's exhibit and make them part of the record.

13 Thereafter, the Marshall will present them to the
14 Court. I'll review it and see if it's appropriate. If I
15 think that your question is appropriate I will be the one to
16 ask the question. After I do excuse a witness from their
17 subpoena I will not require them to come back to the
18 courthouse. So if there is a question you would like to ask
19 any witness, please make sure you let me know. I'll hold them
20 here. I'll give you time to write your question out, I'll
21 give you plenty of time. But just make sure you get my
22 attention prior to me releasing that witness. Thank you very
23 much.

24 State can call their next witness.

25 MS. BOTELHO: Yes, Your Honor. The State calls Dr.

1 Deborah Kuhls.

2 DEBORAH KUHLS, STATE'S WITNESS, SWORN

3 THE CLERK: Thank you. Please be seated. Could you
4 please state your full name, spelling your first and last name
5 for the record?

6 THE WITNESS: Sure. My first name is Deborah, that's
7 D-e-b-o-r-a-h. I use the middle initial A. And Kuhls,
8 K-u-h-l-s.

9 THE COURT: You may proceed.

10 MS. BOTELHO: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY MS. BOTELHO:

13 Q Doctor Kuhls, how are you employed?

14 A I'm employed by the University of Nevada School
15 of Medicine.

16 Q And what is your position there?

17 A My position is I'm Associate Dean of Academic
18 Affairs and I'm Associate Professor of Surgery.

19 Q Okay. What type of educational background do
20 you have to hold your position?

21 A Okay. So after college I attended a
22 post-baccalaureate pre-medical program for two years.
23 Attended medical school for four years. Surgery residency for
24 six years and surgical critical care and trauma fellowship for
25 one year.

1 Q Okay. And after your schooling or your
2 educational background, did you hold other positions prior to
3 working at UMC?

4 A No. I went directly from fellowship training to
5 actually -- technically, it's the University of Nevada School
6 of Medicine, but I practice at UMC.

7 Q Okay. So now going to your practice, are you
8 licensed as a physician or as a doctor in Nevada?

9 A Yes.

10 Q Okay. And you kind of gave us a bunch of what
11 your positions, you work for the school, but you said you also
12 practice at UMC. What is the nature of your practice there?

13 A I'm trained as a general surgeon and trauma
14 surgeon and surgical critical care specialist. So the nature
15 of my practice at UMC, I take general surgery call. I also
16 take trauma surgery call as I will be doing tonight. And I
17 manage the trauma intensive care unit and I take care of
18 critically ill and injured patients.

19 Q Were you working in that capacity back on July
20 22nd, 2011?

21 A Correct.

22 Q And at that time I'd like to call your attention
23 to about seven p.m. You're what's considered an attending
24 physician; is that correct, Doctor?

25 A Correct.

1 Q And what -- what exactly does that mean?

2 A It means that I finished my -- my training and
3 I'm fully licensed to operate and evaluate patients
4 independently.

5 Q Okay. And do you manage any other doctors or
6 other staff?

7 A I do. When on trauma call, we're typically on
8 trauma call with surgical residents, both junior and senior.
9 Sometimes with fellows who are training in trauma surgery and
10 critical care. We also have the emergency medicine residency
11 program and often those residents are on our service. We also
12 have medical students and those are the people who are in
13 training that I supervise. When on call there is a group of
14 people who are called to evaluate trauma patients that are
15 announced to us and that meet criteria for what we call a
16 trauma activation and they're from many specialties including
17 radiology, the blood bank, in some cases anesthesia, the OR
18 and so forth. So there's a large group of people that we
19 direct.

20 Q Okay, thank you. At some point, Doctor, were
21 you contacted by the Clark County District Attorney's Office,
22 an investigator and also by myself?

23 A Yes.

24 Q Did I ask you to review some medical records
25 concerning a patient who presented at UMC by the name of Aneka

1 Grimes?

2 A Yes.

3 Q And did you review those medical records?

4 A Yes.

5 Q Doctor Kuhls, what injuries did the patient,
6 Aneka Grimes, present?

7 A So Aneka Grimes came in as what we call an
8 intermediate trauma activation. What that means is when EMS,
9 the pre-hospital people, evaluated her, they felt that she had
10 injuries that would warrant a trauma surgeon and the team
11 needing her. We have two levels of activation; one is a full
12 trauma activation and one is an intermediate, she was an
13 intermediate. So the types of people that I described before
14 were all there. Our beepers go off usually in advance of the
15 patient arrival and the entire team is there to meet the
16 patient because it is felt that there is a high likelihood of
17 life or limb-threatening injuries. And as a surgeon, I'm
18 specifically alerted because there is a high probability of
19 need for surgery.

20 Q Okay. And what type of injuries did she have?
21 She was an intermediate trauma level. What kind of injuries?

22 A So she was largely stab wounds and she had
23 multiple stab wounds to her upper extremities, her upper
24 chest, her neck, her face and her scalp.

25 Q Okay. So you have this team kind of meet and

1 evaluate the patient, in this case Aneka Grimes. Were you
2 present during this evaluation?

3 A Yes.

4 Q And you indicated earlier to the jury that there
5 were multiple stab wounds. Doing this investigation -- or
6 evaluation, Doctor, could you please tell the jury where the
7 stab wounds were located?

8 A So she had them both -- to both left and right
9 upper extremities. She had some to the axilla, which is near
10 the armpit area. She had some to the upper chest, to the
11 neck, also to the scapula area, which is the upper -- upper
12 back, the face and the scalp.

13 Q Okay. And doing this evaluation, were you or
14 your team able to count the number of stab wounds she had per
15 region that you just described for the jury?

16 A That was documented in the chart and I don't
17 remember the exact number, but I believe it was greater than
18 20.

19 Q Okay. Would looking at your -- at -- at least
20 an admission or admit report by UMC, refresh your memory as to
21 the exact number per region?

22 A Would you like me to review that? I'm sorry.

23 Q Would looking at it --

24 A Sure, sure.

25 Q -- refresh your memory?

1 MS. BOTELHO: May I approach, your Honor --

2 THE COURT: You may.

3 MS. BOTELHO: -- just for the purpose of
4 refreshing --

5 THE COURT: You may.

6 MR. HILLMAN: Ms. Botelho, could I see what you're
7 showing her?

8 MS. BOTELHO: Sure.

9 MR. HILLMAN: Thank you.

10 MS. BOTELHO: I apologize, Mr. Hillman.

11 THE COURT: And what are you going to -- I'm assuming
12 it's medical records?

13 MS. BOTELHO: The medical records, Your Honor.

14 THE COURT: Okay.

15 MS. BOTELHO: Primarily a report made after
16 admission --

17 THE COURT: Okay.

18 MS. BOTELHO: -- to UMC.

19 BY MS. BOTELHO:

20 Q Doctor, if you could just please take a look at
21 this report. First of all, do you --

22 A Okay.

23 Q -- recognize it as a report that you reviewed
24 prior to testifying today?

25 A So this is a report that is dictated by one of

1 our resident physician's --

2 THE COURT: Did you review it prior to coming to
3 testify today?

4 THE WITNESS: Yes, I did.

5 THE COURT: Okay. That was the question pending.

6 THE WITNESS: Okay.

7 THE COURT: Go ahead.

8 MS. BOTELHO: Thank you.

9 BY MS. BOTELHO:

10 Q And upon looking at this report, does it refresh
11 your recollection as to how many stab wounds were found per
12 region?

13 A Correct, it details them.

14 Q Okay. And while you still have it in --

15 A Would you like me to read it?

16 Q If you could, please.

17 A Okay. So when it gets to --

18 THE COURT: Wait, wait, wait.

19 MR. HILLMAN: No, not out loud.

20 THE COURT: We don't want her to read the record.

21 THE WITNESS: Okay.

22 THE COURT: I don't think you wanted her to read the
23 medical record.

24 MS. BOTELHO: Just the number of stab wounds around
25 her -- at this point, it's past recorded recollection.

1 THE COURT: Okay.

2 MS. BOTELHO: And just that brief portion as to the
3 number per area.

4 THE COURT: Okay. Go ahead, you can proceed.

5 A Okay. So -- so she had --

6 MR. HILLMAN: Again, I object. I don't think she
7 wrote it so it's not a past-recorded recollection. I don't
8 have any objection to her reviewing the --

9 THE COURT: Okay.

10 MR. HILLMAN: -- report and --

11 THE COURT: That's actually -- that's a good
12 objection. So it's a foundation, it's sustained at this time.
13 Can you lay the foundation for this?

14 MS. BOTELHO: Sure.

15 THE COURT: Okay.

16 BY MS. BOTELHO:

17 Q Doctor, did you, yourself help to evaluate Aneka
18 Grimes?

19 A Yes.

20 Q And were you present during the evaluation that
21 you spoke to the jury about?

22 A Yes.

23 Q The same evaluation where you evaluated or
24 looked at her physical body and determined how many stab
25 wounds she, in fact, incurred so you could treat her?

1 A Correct.

2 Q And during that evaluation do you, yourself, at
3 that point in time, have personal knowledge as to how many
4 stab wounds she had per area?

5 A I -- you know, it's not something that I
6 memorize as I memorize the regions and that there were
7 multiple --

8 Q Okay.

9 A -- and I left a note in the chart as well.

10 Q Okay.

11 A So and there were multiple to the -- the left
12 upper extremity greater than the right upper extremity, the
13 chest, the neck, the face, the scalp and the upper back.

14 Q Okay. And I guess my next question is --

15 A And I believe that number added up to 21 in my
16 review of the chart.

17 Q Okay. And while you may not memorize the number
18 per region, is -- what is the purpose of making a report and
19 having, you know, notes dictated?

20 A So -- so the purpose of really making a report
21 and evaluating, it really reflects our evaluation of the
22 patient. And the way that we evaluate injured patients is
23 very systematic so that we do not miss injuries. And when we
24 look at the location of injuries, it can indicate a possible
25 injury to underlying or deep structures and that's the main

1 reason that we document them.

2 Q Okay. So did -- would looking at this report
3 refresh your memory? We'll take it one section at a time. As
4 to how many stab wounds she had on her left extremity?

5 A So it is documented as eight.

6 Q Okay. Thank you. And would looking at this
7 report refresh your recollection as to how many stab wounds
8 she had to her face?

9 A So she had one to her face and multiple to her
10 scalp. I believe it was three.

11 Q Thank you very much.

12 A Correct.

13 Q And how about to her chest area?

14 A So she had multiple to her chest. I'd really
15 have to look; one -- let's see it says three -- three to the
16 chest. And the chest area, I -- I think what -- if you don't
17 mind if I can just comment on why --

18 Q Sure.

19 A -- we --

20 THE COURT: There's not a question pending.

21 A -- designate this.

22 THE COURT: So if you want to ask the doctor a
23 question, that would be --

24 BY MS. BOTELHO:

25 Q Do you have some clarification with regard to

1 what we've just been talking about in the chest area in
2 general, Doctor?

3 A So the chest area and the neck area are two
4 areas where large blood vessels travel from the heart to the
5 either the extremities or the brain. And they can really --
6 the stab wounds in those areas can really indicate a
7 life-threatening injury.

8 Q Okay. Do you note any to her posterior shoulder
9 area?

10 A Correct.

11 Q Okay. And the number with regard --

12 A Just one.

13 Q And how about the right axilla? Did I say that
14 right?

15 A That's correct. There are two.

16 Q Oh, okay. And did you note any towards the left
17 side of her scalp?

18 A I don't -- don't recall. She had them to her
19 scalp. I could look at what the record says. Okay, three to
20 the left side of her scalp.

21 Q Thank you, Doctor.

22 A Correct.

23 Q All right. Let me focus primarily on the three
24 to the left side of her scalp that -- that you just testified
25 about. Is it fair to say that there's two different types of

1 injuries, Doctor, that you can observe or come to find out
2 about, external and internal?

3 A Correct.

4 Q Okay. Were there any kind of internal injuries
5 with regard to her scalp area?

6 A We CAT scanned her brain and there were -- there
7 was no brain injury nor a skull fracture.

8 Q Okay. And as a physician, as a surgeon, what is
9 your primary concern with regard to injuries in this type of
10 -- in this area?

11 A Brain injury.

12 Q You indicated earlier there were three injuries
13 to her neck or three stab wounds to her neck. What particular
14 injury did you note, Doctor?

15 A So she had three stab wounds to her neck and
16 externally we can't tell what is internally injured, so we
17 performed CAT scans and other studies to determine if there
18 was injury to the blood vessels or other structures of her
19 neck. And what we found is there was some active bleeding
20 from a blood vessel in the lower part. I'll just demonstrate
21 it's sort of this area right above the clavicle on the right
22 side of her neck and it was actively bleeding.

23 Q Okay. Let me take this opportunity to kind of
24 back up and show you some photographs.

25 MS. BOTELHO: Let the record reflect I'm showing

1 defense counsel what I will be asking the Court to approach
2 the witness with, Your Honor.

3 THE COURT: Are they marked?

4 MS. BOTELHO: They are marked.

5 THE COURT: Okay. What do you have? State's --

6 MS. BOTELHO: They're kind of out of order because I
7 didn't want them to be redundant, Your Honor. State's Exhibit
8 41, oops --

9 THE COURT: Okay.

10 MS. BOTELHO: 43.

11 THE COURT: Okay.

12 MS. BOTELHO: 44.

13 THE COURT: Uh-huh.

14 MS. BOTELHO: 45, 46, 50, 51, 54 and 55.

15 THE COURT: Any objections, Mr. Hillman?

16 MR. HILLMAN: To her approaching?

17 THE COURT: I just wondered if they were stipulated
18 to where I could admit them right now?

19 MR. HILLMAN: Oh, no, that's fine.

20 THE COURT: Okay.

21 MR. HILLMAN: They can come in.

22 THE COURT: They will all be admitted into evidence.

23 (State's Exhibit 41, 43, 44-46, 50, 51, 54, 55 admitted.)

24 MS. BOTELHO: Thank you. And just --

25 THE COURT: Thank you, Mr. Hillman.

1 MS. BOTELHO: -- may I approach just to get the
2 witness familiarized with what I will be --

3 THE COURT: You may.

4 BY MS. BOTELHO:

5 Q Doctor Kuhls, I'm just going to show you the
6 photographs or the exhibits that I just named off to Judge
7 Leavitt. Could you please take a look at each photograph and
8 see if you recognize them and then we'll talk about them on
9 the overhead so the jury can see what we're doing.

10 A Okay. So the first really relates --

11 Q I'm sorry --

12 THE COURT: I think there's no question pending.

13 BY MS. BOTELHO:

14 Q -- can you just kind of look --

15 A Okay.

16 Q -- look at the pictures --

17 A What would you like me to do?

18 Q -- just go through them.

19 A Okay, okay.

20 Q And then I'll take it to the front and we'll
21 show the jury. Do you recognize these as having -- have you
22 seen these photographs before?

23 A Yes.

24 Q And do you recognize them to be the injuries
25 that would have been present on Ms. Grimes when she presented

1 to you on July 22nd, 2011?

2 A They're consistent.

3 Q Thank you.

4 MS. BOTELHO: And being that they're admitted, Your
5 Honor, may I publish?

6 THE COURT: You may.

7 MS. BOTELHO: Thank you.

8 BY MS. BOTELHO:

9 Q Doctor Kuhls, State's Exhibit 41 on the ELMO,
10 before I got ahead of myself, we were talking about injuries
11 you noted to the left side of Ms. Grimes' scalp. Is that
12 depicted here in this photo?

13 A That is part of her scalp, correct.

14 Q Okay. What exactly is going on in this photo?
15 Is there some kind of surgery being -- is it post-surgery,
16 past?

17 A She -- she did not technically go to the
18 operating room. We did our procedural repairs in what we call
19 our trauma resuscitation area. So the large white drape that
20 you see is a sterile drape with a hole in the middle. It's
21 called a fenestrated drape. The blue -- the blue drape is
22 called a blue towel. There's what looks like a scissors next
23 to it, so there isn't anyone actively doing anything but you
24 can see the blood that would be represented from her scalp
25 lacerations.

1 Q And just before I approached you with the
2 photographs, we talked about the injuries to Ms. Grimes' neck.

3 MS. BOTELHO: Court's indulgence, Your Honor.

4 THE COURT: Of course.

5 MS. BOTELHO: Thank you. Your Honor, I'm also going
6 to be approaching and asking to admit State's Exhibits 39, 40,
7 42, 47, 48, 49, 52 --

8 THE COURT: Fifty what?

9 MS. BOTELHO: 52.

10 THE COURT: Okay.

11 MS. BOTELHO: 53, 56, 57 and 58. I grabbed the wrong
12 stack.

13 THE COURT: Has defense had a chance to review them?

14 MR. HILLMAN: Right. No objection, Judge.

15 THE COURT: To their admission?

16 MR. HILLMAN: Yes, they can be admitted.

17 THE COURT: They're admitted.

18 (State's Exhibit 39, 40, 42, 47-49, 52, 53, 56-58 admitted.)

19 BY MS. BOTELHO:

20 Q Doctor, I apologize. I grabbed the wrong stack
21 of pictures. Could you please take a look at these
22 photographs and see if they're also consistent with the
23 injuries Aneka Grimes presented on July 22nd, 2011? Are they
24 consistent with the injuries, Doctor?

25 A Yes.

1 Q Thank you.

2 MS. BOTELHO: Permission to publish, Your Honor?

3 THE COURT: You may.

4 BY MS. BOTELHO:

5 Q So back to our conversation about injuries to
6 the neck, Doctor.

7 MS. BOTELHO: Permission to publish State's Exhibits
8 53 and 56, Your Honor?

9 THE COURT: You may.

10 BY MS. BOTELHO:

11 Q First I'll put 56 on. And you were just in the
12 process of, before I interrupted you, Doctor, of kind of
13 demonstrating to the jury how she had the stab wound over --
14 to the right side of her body on her neck. With regard to
15 this particular area, you indicated there was a bleeding
16 branch; is that correct? Or to the -- can you just describe
17 this injury for us?

18 A Sure. It's a -- it's a little difficult to tell
19 where her clavicle is, which is our bone that sort of
20 separates our chest from our neck. But it is right in the
21 area and it runs just underneath her stab wounds to -- to the
22 neck. And this is what we call zone one of the neck and a
23 large blood vessel goes -- it's called a subclavian artery.
24 It goes to -- to the arm and then there are multiple branches
25 that go up to the neck and the brain. And so with a stab

1 wound like that, we really don't have any idea looking at it
2 externally how deeply it -- it went and whether any of those
3 blood vessels or their branches were injured and whether
4 they're actively bleeding or whether they're -- could
5 potentially bleed.

6 Q Okay. So are you able to conduct tests to
7 determine whether or not it had been -- it had gone deep
8 enough to actually cut?

9 A Correct. So -- so what we do -- usually do in
10 these cases when a patient's vital signs are what we would
11 consider stable is we send them for a specialized CAT scan
12 that is reconstructed to look at the blood vessels and that
13 did find an area of active bleeding.

14 Q Okay. If you could, Doctor, just very briefly
15 for the jury describe the different arteries and veins that
16 are running around the neck area?

17 A Sure. So we have the subclavian vessel that
18 runs underneath the clavicle and their branches. The
19 jugulars, the internal and external jugulars go through the
20 neck in this area. Then there are multiple other small
21 vessels, one that is the internal mammary that goes off and it
22 actually then heads down into our chest, in the anterior
23 portion of our chest. There are other ones that go towards
24 the back, towards our spinal cord and they're called the
25 vertebral arteries. And where her injury was, was right

1 between the internal mammary artery, which then kind of goes
2 into the chest underneath the chest bone and then a branch
3 that goes to -- to her spine.

4 There was an area of active bleeding that was thought
5 to be a muscular branch of that. And as a result of that
6 finding, I sent her for what we call angiography and
7 embolization, which is a little like a cardiac catheterization
8 where we put a -- a long catheter into a large blood vessel.
9 We shoot contrast and then we can actually many times stop
10 bleeding without an operation and a radiologist does that. I
11 do not do that.

12 Q Okay. And what were the results of that angio?

13 A So at the point where the angio was performed,
14 the active bleeding had stopped, so.

15 Q And I'm going to ask you what may seem like an
16 obvious question. But as a physician and as a surgeon, what
17 is your primary concern with regard to injuries around the
18 neck?

19 A Bleeding, injury to the trachea, which governs
20 our ability to breathe. And behind that lies the esophagus
21 and if either one of those are injured, you can, you know,
22 have inability to breathe, inability to eat, terrible
23 infections and then to the blood vessels obviously bleeding to
24 death is -- is a concern. Or that there's a large hematoma
25 that is underneath the skin, which you can't really evaluate

1 in a patient like her because it can really be deep and then
2 it can put pressure on the trachea and cause us to not be able
3 to breathe.

4 Q Thank you. And then you also testified to Aneka
5 Grimes having three injuries or stab wounds to her chest.

6 MS. BOTELHO: I'd like to publish State's Exhibit 53
7 with the Court's permission.

8 THE COURT: You may.

9 MS. BOTELHO: Thank you.

10 BY MS. BOTELHO:

11 Q Like it just kind of shows a little bit better,
12 some of the injuries that she may have had on her chest. Now
13 with regard to injuries on the chest like this, what's your
14 primary concern, Doctor?

15 A There are several. One is that again if they
16 had penetrated, that there could either be air around the lung
17 that would cause the lung not to -- to be able to function,
18 that's called a pneumothorax. There could be bleeding into
19 the lung area or into the chest. That again can cause threat
20 to life just due to hemorrhage. Also, depending upon the
21 trajectory, there can be an injury to the heart and again to
22 the great vessels coming out of the heart. So these are
23 potentially very lethal injuries.

24 MS. BOTELHO: Permission to publish State's Exhibit
25 57, Your Honor.

1 THE COURT: You may.

2 BY MS. BOTELHO:

3 Q Doctor, can you tell from this Exhibit what
4 injury this picture is depicting?

5 A This is actually -- this is a stab wound to the
6 chest. And the -- the orientation, I don't have a means of --
7 of marking, but you see the tubing that's actually --

8 THE COURT: Oh, sure. If you want to -- you can
9 actually mark on here if you'd like to mark.

10 BY MS. BOTELHO:

11 Q It's like Monday Night Football, you can just
12 draw on it.

13 A Oh, really? Okay. Oh, okay, nice. Okay, well
14 that's -- that's the stab wound. So and then this would be
15 her nipple on this side. I don't know if that shows up or
16 not. And we can just approximate midline, so that would be
17 right through here. So again, this is very close to the -- to
18 the breastbone. Underneath lie your great vessels and -- and
19 your heart. So it's potentially a lethal injury, so one that
20 we would take very, very seriously.

21 Q Thank you.

22 MS. BOTELHO: Permission to publish State's Exhibit
23 58, Your Honor.

24 THE COURT: You may.

25 BY MS. BOTELHO:

1 Q I don't know if I have this oriented right.
2 Doctor, can you tell from this photograph what this is? Where
3 this injury is?

4 A Yes, yes. This -- these are the two stab wounds
5 to her right axilla. So this area over here is actually her
6 right chest and then curving around to her right arm.

7 Q Thank you. And earlier at the very beginning of
8 our conversation and the number of wounds she had in certain
9 regions, you mentioned there were eight in her lower -- I'm
10 sorry -- in her left upper extremity.

11 MS. BOTELHO: Permission to publish State's Exhibit
12 49, Your Honor.

13 THE COURT: You may.

14 MS. BOTELHO: Thank you.

15 BY MS. BOTELHO:

16 Q And could you please tell the jury what this is?
17 That's not -- there we go. What this is a photograph of,
18 Doctor?

19 A Okay. So -- so this is her upper arm. This
20 area's her elbow and then this is her forearm. So you see
21 multiple stab wounds in this area.

22 Q Doctor, when she first presented, how was Aneka
23 treated? What kind of treatment was she given?

24 A The -- the first thing that we do with trauma
25 patients is we have a very systematic way of -- of evaluating

1 them. And it's airway breathing, circulation and then whether
2 they're neurologically impaired. We call that D for
3 disability. And on exposures, when we start to get an idea of
4 where the stab wounds are and so forth and we do front and
5 back, look in hidden areas like the axilla of the perineum and
6 between the buttocks and so forth to make sure that there
7 aren't any hidden wounds. And then we go again head to toe.

8 We do any X-rays that we think are -- are warranted,
9 we draw blood, we place IVs, we start fluids and I would say,
10 you know, all of that happens within three to five minutes.
11 Then we determine -- we get, of course, vital signs and then
12 we determine kind of a -- a course of how we're going to
13 figure things out. If a patient's unstable, they go directly
14 to the operating room. In her case, her vital signs were
15 stable so we did X-rays and CAT scans on her.

16 Q Okay. And what did the X-rays and the CAT scans
17 reveal?

18 A So she had multiple X-rays. To her extremities
19 we were looking for whether there were foreign bodies or
20 broken bones. And there was just a suggestion of a foreign
21 body, I believe it was in her left upper extremity. Did a CAT
22 scan of her chest, which would again show whether there was
23 any air around the lungs called a pneumothorax where there was
24 bleeding into the chest. And then we did the what we call a
25 CTA, it's a -- it's a CAT scan type of angiography to look

1 initially for bleeding and we can do that very quickly. And
2 since there was thought to be some active bleeding, then my
3 choice would be either to operate or to go to angiography.

4 In her area of active bleeding, it is an extremely
5 difficult, technically difficult area, because it was actually
6 very close to the clavicle and it was deep. And so for me to
7 surgically get to it, I'd have to really go through a lot of
8 muscles and potentially damage other things. So luckily, we
9 have angiography. By then that bleeding had stopped so they
10 did not need to do any embolization.

11 Q Okay. And was there any kind of air found in
12 her lung at all or her chest area?

13 A There -- there -- there was not in her lung per
14 se, but what happens when we get stabbed in our soft tissue,
15 there's air introduced from the outside. So we call that
16 subcutaneous air and that was found on her CAT scans.

17 Q Okay. After she was treated, is it -- was she
18 admitted to intensive care at that point?

19 A She was admitted to the intensive care unit.

20 Q And based on your review of her file, she was
21 discharged on -- on July 24th; is that correct?

22 A That's correct.

23 Q Doctor, while Ms. Grimes was there and through
24 your review of her reports, do you know what sort of
25 complaints Aneka represented primarily with regard to pain or

1 swelling or lack of range of movement?

2 A She -- she had -- she had pain related to all of
3 her stab wounds and that was her initial complaint from the --
4 from the time that we really saw her. With regards to her
5 left upper extremities, she had both a lot of pain, she felt
6 she had some weakness of -- of her left upper extremity.

7 Q Thank you.

8 MS. BOTEHO: Court's indulgence. I have no further
9 questions for this witness. Thank you, Doctor.

10 THE COURT: Cross-examination?

11 MR. HILLMAN: Thank you, Judge.

12 CROSS-EXAMINATION

13 BY MR. HILLMAN:

14 Q Afternoon, Doctor.

15 A Good afternoon.

16 Q I'm Roger Hillman, I'm one of the defense
17 attorneys. I just have a few questions for you. Do you
18 remember about what time this occurred?

19 A It happened in the evening, seven, eight
20 o'clock, something like that.

21 Q And that would have been on the 22nd?

22 A Correct.

23 Q And I think you testified that procedural
24 repairs were done on her scalp; is that correct?

25 A And throughout the body, all of her --

1 essentially all of her stab wounds were repaired and closed.

2 Q Okay. And that was done by stitches basically?

3 A Stitches and staples.

4 Q Okay, in layman's terms.

5 A Right and in doctor's terms. We use the same
6 terms.

7 Q Okay. All right. And you indicated or you --
8 I'm sorry. You said that you did tests and there were no
9 brain injuries; is that correct?

10 A Correct.

11 Q And there were also no injuries to her skull,
12 correct?

13 A Correct.

14 Q And that before they could go in through her
15 arteries to check the bleeding near her clavicle, that had
16 stopped bleeding as well; is that correct?

17 A That's correct.

18 Q And she was discharged on the 24th of July,
19 2011?

20 A Correct.

21 MR. HILLMAN: Nothing else, Judge.

22 THE COURT: Any redirect?

23 MS. BOTELHO: No, Your Honor. Thank you very much.

24 THE COURT: Doctor, thank you very much for your
25 testimony --

1 THE WITNESS: Thank you.

2 THE COURT: -- here today. You may step down, you
3 are excused from your subpoena. Thank you for being here.

4 You can call your next witness.

5 MS. BOTELHO: Your Honor, the State calls Aneka
6 Grimes. Thank you, Doctor.

7 ANEKA NEWMAN, STATE'S WITNESS, SWORN

8 THE CLERK: Thank you. Please be seated. Could you
9 please state your full name, spelling your first and last name
10 for the record?

11 THE WITNESS: Aneka Newman, A-n-e-k-a, N-e-w-m-a-n.

12 MS. BOTELHO: May I proceed, Your Honor?

13 THE COURT: You may.

14 MS. BOTELHO: Thank you.

15 DIRECT EXAMINATION

16 BY MS. BOTELHO:

17 Q Hi. Is it -- is it okay if I call you Aneka?

18 A Uh-huh.

19 Q Okay. Aneka, you just --

20 THE COURT: Was that a yes?

21 THE WITNESS: Yes.

22 THE COURT: Okay. Thank you.

23 BY MS. BOTELHO:

24 Q I apologize. Aneka, you're just going to have
25 to answer yes or no into the microphone so that the court

1 reporter can take down what we're saying. Okay?

2 A Okay.

3 Q All right. You introduced yourself as Aneka
4 Newman.

5 A Uh-huh.

6 Q Is that right?

7 A Yes.

8 Q Back around July of 2011, was your last name
9 Newman?

10 A No, it was Grimes.

11 Q Okay. And we'll talk about that in just a
12 little bit. Okay? Aneka, how old are you?

13 A Twenty-nine.

14 Q Do you know someone by the name of Bennett
15 Grimes?

16 A Yes.

17 Q And how do you know this individual?

18 A We were married.

19 Q Okay. How long were the two of you together?

20 A Ten years.

21 Q And how long were you married?

22 A Seven, I think.

23 Q Okay. Do you see Bennett Grimes here in court?

24 A Yes.

25 Q Can you please point to him and describe

1 something he's wearing?

2 A A pink shirt.

3 MS. BOTELHO: Your Honor, let the record reflect
4 identification of the defendant.

5 THE COURT: So reflected.

6 BY MS. BOTELHO:

7 Q Okay. So back on July 22nd, 2011, you were
8 married to Mr. Grimes, the defendant; is that right?

9 A Yes.

10 Q Okay. And your last name is now Newman. Did
11 you get a divorce, Aneka?

12 A Yes.

13 Q Okay. And when did that divorce become final?

14 A In April.

15 Q Okay. Of this year?

16 A Yes.

17 Q Aneka, back on July, 2011, where did your
18 parents live?

19 A In Victor Hill, California.

20 Q Okay. Both your mom and dad?

21 A Yes.

22 Q All right. Aneka, I want to turn your attention
23 specifically to July 22nd, 2011. Okay? Where did you live at
24 that time?

25 A 9325 West Desert Inn Road, Apartment Number 173,

1 Las Vegas, Nevada 89117.

2 Q Okay. And I'm sorry, did you give us an
3 apartment number?

4 A Yes.

5 Q Okay. Was it apartment number 173?

6 A Yes.

7 Q And is that here in Las Vegas, Clark County,
8 Nevada?

9 A Yes.

10 Q All right. So you were married to the defendant
11 at that time; is that right?

12 A Yes.

13 Q Was he living with you at apartment number 173?

14 A Yes.

15 Q Okay. On that particular date was he living
16 with you?

17 A No -- well, he wasn't supposed to be there.

18 Q Okay. But remember, my question is was he
19 living with you?

20 A No.

21 Q Okay. Was the defendant, Mr. Grimes, on the
22 lease with regard to apartment number 173?

23 A No.

24 Q Okay. You just indicated that he wasn't
25 supposed to be there. Was that because you had a temporary

1 protective order against him?

2 A Yes.

3 Q And basically, your understanding with that TPO
4 was that he wasn't supposed to be around your apartment or
5 you; is that right?

6 A Yes.

7 Q Okay. Specifically on July 22nd, 2011, Aneka,
8 was there anyone from your family visiting in town?

9 A My mother.

10 Q Okay. And so she came from California?

11 A Yes.

12 Q All right. What was she in town for?

13 A Just visiting.

14 Q Okay. Specifically on July 22nd, 2011, were the
15 two of you out shopping or doing something together?

16 A Yeah, I was getting a new car.

17 Q Did you in fact get a new car?

18 A Yes.

19 Q Okay. I want to turn your attention to about
20 6:30, 6:45 p.m. Okay? Same day, July 22nd, 2011. You were
21 with your mom; is that right?

22 A Yes.

23 Q Okay. Around 6:30, 6:45 what were you and your
24 mom doing?

25 A Just walking up to my apartment.

1 Q Okay. And was this after you had just come back
2 from car shopping?

3 A Yes.

4 Q Who walks into the apartment first?

5 A Me.

6 Q And do you know whether or not your mom was
7 behind you or fairly close to you?

8 A Yeah, she was right behind me.

9 Q Okay. Did you see anyone else around the
10 apartment entrance --

11 A No.

12 Q -- at that time? Okay. And I'll show you
13 Aneka, State's Exhibit 4, it's already been admitted.

14 MS. BOTELHO: Your Honor, may I publish?

15 THE COURT: You may.

16 MS. BOTELHO: Thank you.

17 BY MS. BOTELHO:

18 Q Aneka, do you recognize what this photo shows?

19 A Yes.

20 Q Okay. The screen that's right in front of you,
21 Aneka, you can actually make marks on it. Like you touch the
22 screen to make the mark and it will show up all over the TVs
23 in court. Okay? Where is your door? Where is your apartment
24 door?

25 A There.

1 Q Okay. All right. Let me publish State's
2 Exhibit Number 5, that should give us a better indication of
3 the door.

4 MS. BOTELHO: May I publish, Your Honor?

5 THE COURT: You may.

6 BY MS. BOTELHO::

7 Q Can you point out the door?

8 A (Witness complies)

9 Q Okay. So you just told the jury your mom went
10 in first and then you went in?

11 THE COURT: No. She said she went in first.

12 BY MS. BOTELHO:

13 Q I'm sorry. You went in first and then your mom
14 went in behind you.

15 A Yes.

16 Q You didn't see anyone else?

17 A No.

18 Q At some point, did you come to notice someone
19 else in that area?

20 A Yes.

21 Q Okay. And who did you come to notice?

22 A Bennett.

23 Q Okay. What was he doing?

24 A My mom was yelling for me to come to the door
25 because he was trying to barge into the house.

1 Q Okay. And so what did -- did you see what your
2 mom was doing?

3 A She was trying to hold the door closed.

4 Q Okay. And what were you doing?

5 A I came in after her to help try to hold -- close
6 the door.

7 Q And so were you on the inside of your apartment
8 trying to hold the door back?

9 A Yes.

10 Q And where was Bennett?

11 A On the other side, outside.

12 Q Were you and your mom successful in keeping
13 Bennett from coming into your apartment?

14 A No.

15 Q What happened once he was in the apartment?

16 A There was a little confrontation back and forth,
17 arguing.

18 Q And by confrontation, Aneka, do you mean
19 physical, verbal?

20 A Verbal.

21 Q Okay. And what was being said back and forth?

22 A Just that he was sorry and that he loved me and
23 that he wanted to be with me basically.

24 Q And what was your reaction to what Bennett was
25 telling you?

1 A At that point I didn't really care.

2 Q Okay. So did you say anything to verbalize that
3 you didn't care at that point?

4 A Yeah.

5 Q Okay. Was Bennett talking just to you or you
6 and your mom?

7 A Me and my mother.

8 Q Okay. And what was he saying to your mom?

9 A The same thing. Just that he was sorry and that
10 he loved her daughter.

11 Q Meaning you?

12 A Yes.

13 Q Okay. And what was your mother saying?

14 A That he needed to leave and to come with her
15 outside so that she could talk to him.

16 Q Okay. Did he listen?

17 A No.

18 MS. BOTELHO: Permission to publish admitted State's
19 Exhibit 26, Your Honor.

20 THE COURT: You may.

21 MS. BOTELHO: Thank you.

22 BY MS. BOTELHO:

23 Q Okay, Aneka, we're going to do the whole mark
24 the screen thing again. Okay? Could you please show the
25 ladies and gentlemen of the jury where Bennett was standing

1 when he entered the apartment?

2 A (Witness complies)

3 Q Okay. So right in front of the front door?

4 A Uh-huh.

5 Q Is that a yes?

6 A Yes.

7 Q And where were you standing?

8 A At first I was standing right here and then I
9 walked over to the counter.

10 Q Okay. And when you were first closer to the
11 front door -- okay? -- where was your mother standing?

12 A She was standing here also.

13 THE COURT: I'm sorry. I don't know if there's any
14 tissue in there.

15 THE WITNESS: Thank you.

16 THE COURT: Are you okay? Can you continue?

17 THE WITNESS: Yes.

18 BY MS. BOTELHO:

19 Q Okay. So your mom was kind of -- at least from
20 what I can see from the blue marks, kind of standing between
21 you and Bennett; is that right?

22 A Yes.

23 Q Okay. So this -- this kind of conversation --
24 you made it a -- you described it as a confrontation --

25 A Uh-huh.

1 Q -- but is it fair to say it was more like an
2 argument?

3 A Yeah.

4 Q Okay. And did you, yourself ask Bennett to
5 leave?

6 A Yes.

7 Q And at some point do you remember hearing your
8 mom on the phone?

9 A I saw her on the phone.

10 Q Okay. And later or at that time, do you know
11 who she was on the phone with?

12 A My dad.

13 Q And while she was on the phone with your dad,
14 what were you doing?

15 A That's when I had walked over to the counter and
16 called the police.

17 Q At some point do you remember seeing or hearing
18 your mom talking to anyone other than your dad?

19 A No.

20 Q At some point you called the police?

21 A Yes.

22 Q Okay. Aneka, do you remember coming to my
23 office this morning and also meeting with myself and Mr.
24 Burns last Sunday?

25 A Yes.

1 Q Today when you met with me do you remember
2 hearing the 9 -- a 9-1-1 call?

3 A Yes.

4 Q And do you remember recognizing that to be the
5 9-1-1 call that you played -- or that you called -- placed on
6 July 22nd, 2011?

7 A Yes.

8 Q And to state that, do you recognize or did you
9 initial the CD that the 9-1-1 call was burnt on?

10 A Yes.

11 MS. BOTELHO: Permission to approach.

12 THE COURT: Has it -- has it been marked as Exhibit
13 23?

14 MS. BOTELHO: It has been, Your Honor.

15 THE COURT: Okay.

16 MS. BOTELHO: May I approach with State's Exhibit 80?

17 THE COURT: I'm sorry?

18 MS. BOTELHO: State's Exhibit 80, 8-0 proposed
19 Exhibit.

20 THE COURT: I thought you just said 23?

21 MS. BOTELHO: Eighty.

22 THE COURT: Okay.

23 MS. BOTELHO: Sorry.

24 THE COURT: Number 80, you may.

25 BY MS. BOTELHO:

1 Q Aneka, do you recognize the CD?

2 A Yes.

3 Q Do you recognize your initial on the CD?

4 A Yes.

5 Q And by initialing the CD, do you state for the
6 court, in front of the jury, that this is a true and accurate
7 recording of the 9-1-1 call you placed?

8 A Yes.

9 Q Okay.

10 MS. BOTELHO: Your Honor, I move to admit State's
11 Exhibit 80.

12 MR. HILLMAN: No objection.

13 MS. HOJJAT: No objection, Your Honor.

14 THE COURT: Okay. It's admitted.

15 (State's Exhibit 80 admitted.)

16 MS. BOTELHO: Your Honor, the State --

17 THE COURT: You may publish.

18 MS. BOTELHO: Thank you.

19 (9-1-1 call played for jury)

20 BY MS. BOTELHO:

21 Q And Aneka, was that the 9-1-1 call that you
22 placed?

23 A Yes.

24 Q Okay. In the very beginning and also throughout
25 that 9-1-1 call you hear voices other than yours and also the

1 9-1-1 dispatcher. Do you recognize those voices on the 9-1-1
2 call?

3 A Yes.

4 Q And who do you recognize the voices to be of?

5 A My mom and Bennett.

6 Q Okay. At that point could you make out the
7 stuff that your mom was saying?

8 A Yes.

9 Q And what was she saying?

10 A Go outside.

11 Q Okay. And could you make out anything that
12 Bennett was saying?

13 A Not really.

14 Q So after you placed the 9-1-1 call, what happens
15 next?

16 A My -- my mom goes outside to the balcony to wait
17 for the police to come. I was standing by the bar and I had
18 called my best friend. At that time Bennett had walked over
19 and I have like a little place where I keep all my dishes and
20 stuff.

21 Q Okay. Let me stop you right there. So you're
22 in the middle of this bar area at this point, right?

23 A Yes.

24 MS. BOTELHO: Permission to publish State's Exhibit
25 17.

1 THE COURT: You may.

2 BY MS. BOTELHO:

3 Q Do you see the bar area that you were in the
4 middle of, Aneka?

5 A Yes.

6 Q Can you please point to where you were at or
7 make a mark?

8 A (Witness complies)

9 Q Okay. And you were making reference to
10 something either on the counter or behind the counter. Can
11 you tell me what that is?

12 A Like a dish rack.

13 Q Okay. Where in this picture would that dish
14 rack have been?

15 A Right there.

16 Q Okay. And are you saying that it's kind of --
17 it's not on the counter; is that right? You can't really tell
18 from the photo but --

19 A It's behind.

20 Q Okay. It's behind?

21 A Yes.

22 Q Okay. Where's the sink?

23 A Like right here.

24 Q Okay. I'm going to show you a different
25 photograph, Exhibit Number 19.

1 MS. BOTELHO: Permission to publish.

2 THE COURT: You may.

3 BY MS. BOTELHO:

4 Q Okay. Is this a different view of that same
5 area, Aneka?

6 A Yes.

7 Q Okay. Here, can you actually see if I zoom in,
8 the kitchen faucet?

9 A Yes.

10 Q Okay. And is it your testimony then that the
11 dish rack was kind of right behind the faucet or off to the
12 side?

13 A Like right here.

14 Q Was this part of the stuff that was actually in
15 the -- in the drying area?

16 A Yes.

17 Q All right. So you're in the middle of this --
18 Mr. Burns could you please clear it? Thank you. You're in
19 the middle of this bar area right here. What's the
20 significance -- whose flip-flops are those?

21 A They're mine.

22 Q Okay. What's the significance of -- were you
23 wearing these particular flip-flops that day?

24 A Yes.

25 Q Okay. So you were standing right here and then

1 what happened?

2 A That's when Bennett came over and he grabbed the
3 knife from the dish rack and all I remember him saying is
4 okay.

5 Q Prior to him saying okay, what were the two of
6 you talking about, if anything?

7 A Nothing.

8 Q Okay. So he says okay, walks over to you, grabs
9 a knife. What happens next?

10 A Then he pulls me back to the front door and
11 starts stabbing.

12 Q By pulling you back, do you recall how he was
13 pulling you back or what he was pulling you back with?

14 A No, I don't really.

15 Q You don't remember, okay. But at some point I'm
16 going to show you State's Exhibit Number 26 again. You said
17 he pulled you where?

18 A Back to the front door.

19 Q Okay. Can you point to where you were at?

20 A Right there.

21 Q I'm sorry. I just told you to make a mark but
22 I'm going to zoom in a little bit now. Okay. Aneka, there's
23 something on the ground there. Were you wearing a hairpiece
24 at that time?

25 A Yes.

1 Q Okay. And is that your hairpiece?

2 A Yes.

3 Q Okay. So he pulls you to this area right here

4 and what does Bennett do?

5 A Starts stabbing me.

6 Q Where is he stabbing you?

7 A Everywhere.

8 Q Do you remember feeling being stabbed?

9 A Yes.

10 Q And you remember feeling it multiple times?

11 A Yes.

12 Q Okay. Generally, what parts of your body did

13 you feel being stabbed?

14 A My head, my arm, my chest.

15 Q And as Bennett was stabbing you, what were you

16 doing?

17 A Trying to stop him from stabbing me.

18 Q At any point -- how were you trying to stop him

19 from stabbing you?

20 A My arm.

21 Q And just for the record, so our transcript and

22 our record is clear, you just lifted your left arm --

23 A Yes.

24 Q -- up towards your chest and --

25 A Yes.

1 Q -- face area. Okay. And as a result of putting
2 your left arm up to defend yourself, did you suffer stab
3 wounds on your left arm as well?

4 A Yes.

5 Q Did you -- what -- what happened? You're
6 fighting with him or he's stabbing you and you're fighting
7 back. What happens?

8 A I'm just yelling to my mom, like, he's stabbing
9 me, he's stabbing me.

10 Q And you indicated earlier that your mom had gone
11 out to the patio; is that right?

12 A Yes.

13 MS. BOTELHO: State's Exhibit 12, Your Honor.

14 THE COURT: You may.

15 BY MS. BOTELHO:

16 Q Is this the patio right here that your mom was
17 at?

18 A Yes.

19 Q Okay. When your mom went outside, Aneka, and
20 you went to the middle of the bar area, do you remember
21 leaving this door open?

22 A I don't remember.

23 Q Okay. At some point does your mom come back in?

24 A Yes.

25 Q What does she do?

1 A First I saw her just standing there for a minute
2 and then I believe she came over and tried to get him off of
3 me.

4 Q Okay. Was she successful in getting him away
5 from you?

6 A No.

7 Q Okay. Did he eventually stop stabbing you?

8 A No.

9 Q Okay. At some point do you recall police
10 officers arriving?

11 A Yes.

12 Q And coming into your apartment?

13 A Yes.

14 Q Can you tell us about that?

15 A I believe one of them hopped over the balcony
16 and then all I remember is them like tackling him and pulling
17 me away from him. That's really all I remember.

18 Q Okay. So you remember at least being on the
19 floor area here?

20 A Yes.

21 Q And being pulled away and the officers tackling
22 him. Do you recall whether it was around this area?

23 A Yes.

24 Q So the officers come at some point. Is your
25 mother near you again?

1 A Yes.

2 Q Okay. And do you remember your mother trying to
3 hold a towel over your wounds?

4 A Yes.

5 Q Okay. What part of your body?

6 A My head because it was bleeding the most.

7 Q Okay. Do you recall whether or not you could
8 feel blood all over you?

9 A Yeah, I could feel it.

10 Q Okay. Do you remember at that point whether you
11 were feeling pain?

12 A Yes.

13 Q And where were you feeling pain?

14 A Everywhere.

15 Q Aneka, I'm going to ask you something about
16 this, State's Exhibit number 26. Do you see this blue bag
17 right here?

18 A Yes.

19 Q It's towards the middle of the photo on the
20 bottom. Is that your bag?

21 A No.

22 Q Whose bag is that?

23 A Bennett's.

24 Q And did Bennett have that bag with him when he
25 came in and busted through your door?

1 A Yes.

2 Q Do you know how that bag got there?

3 A I guess from him walking --

4 MS. HOJJAT: Objection, speculation.

5 THE COURT: Sustained.

6 BY MS. BOTELHO:

7 Q So you don't really know?

8 A No.

9 Q Okay. Did you put that there?

10 A No.

11 Q Okay. So at some point your testimony, Aneka,
12 is that Bennett came over and grabbed the knife that was on
13 that counter; is that right?

14 A Yes.

15 Q Okay. Did you ever grab that knife?

16 A No.

17 Q Aneka, during the 9-1-1 call, you were fairly
18 calm. Why is that?

19 A I was just at the point where I just wanted him
20 to just be gone.

21 Q And by gone, are you meaning, you know,
22 physically from your apartment or what do you mean by gone?

23 A Gone, out of my life forever, gone.

24 Q Okay. Could you see what he grabbed, what type
25 of knife he grabbed from that dish rack?

1 A No.

2 MS. BOTELHO: Court's indulgence, Your Honor.
3 Permission to publish State's Exhibit 21. I believe it's
4 already been admitted.

5 THE COURT: You may.

6 MS. BOTELHO: Thank you.

7 BY MS. BOTELHO:

8 Q What is this a photo of, Aneka?

9 A The hair, blood.

10 Q Okay. This hair, was that the hairpiece that
11 you were wearing that day?

12 A Yes.

13 Q And what -- what do you recognize this to be?

14 A I don't know.

15 Q Aneka, when your mom went outside to the
16 balcony, do you know whether or not she was speaking with
17 anyone out there?

18 A No.

19 Q Aneka, do you remember being taken to UMC,
20 University Medical Center?

21 A Yes.

22 Q And do you remember being taken there to get
23 treatment?

24 A Yes.

25 MS. BOTELHO: Your Honor, permission to publish a set

1 of Exhibits that I introduced through Detective -- through Dr.
2 Kuhls.

3 THE COURT: You may.

4 BY MS. BOTELHO:

5 Q State's Exhibit 39. Is that you, Aneka?

6 A Yes.

7 Q When you arrived at the hospital?

8 A Yes.

9 Q State's Exhibit Number 40. Is that a closer
10 view of you?

11 A Yes.

12 Q Okay. Do you recall having that injury on the
13 side of your right cheek?

14 A Yes.

15 Q State's Exhibit 42. Do you recall having any
16 kind of injury on your left scalp -- I'm sorry, on your left
17 scalp?

18 A Yes.

19 Q State's Exhibit 47. Do you recall having
20 injuries kind of on the inside of your right arm?

21 A Yes.

22 Q State's Exhibit 52. You just told the jury a
23 little while ago that you used your left arm to protect the
24 rest of your body from Bennett stabbing. Is this what your
25 arm looked like when you went to UMC?

1 A Yes.

2 Q State's Exhibit 43. Is this a close-up of one
3 of the stab wounds on the left side of your arm, Aneka?

4 A Yes.

5 Q State's Exhibit 45. Are these the different
6 lacerations or cuts to your body or to your left arm?

7 A Yes.

8 Q State's Exhibit 46. Different cuts?

9 A Yes.

10 Q State's Exhibit 50. Another cut to your left
11 arm? State's Exhibit 55. Do you remember these cuts to your
12 chest?

13 A Yes.

14 Q State's Exhibit 49. Just a different lower part
15 of your arm, your left arm?

16 A Yes.

17 Q State's Exhibit 58. Are these the two wounds to
18 your -- kind of like near your armpit area?

19 A Yes.

20 Q State's Exhibit 57. Do you remember this wound
21 a little closer to your chest?

22 A Yes.

23 Q State's Exhibit 56. Do you remember this
24 particular stab wound?

25 A Yes.

1 Q And is this to your neck?

2 A Yes.

3 Q Do you note another one right on top of it,

4 right there?

5 A Yes.

6 Q Aneka, how long were you in the hospital?

7 A For two days.

8 Q While you were in the hospital, did you

9 experience any kind of pain?

10 A Yes.

11 Q Where?

12 A All over my body, my arms, my chest.

13 Q Okay.

14 A My head.

15 Q How long did that pain last?

16 A For months.

17 Q Months?

18 A Uh-huh.

19 Q Were you given medication, specifically pain

20 medication?

21 A Yes.

22 Q And how long were you taking those?

23 A Like three months.

24 Q You indicated there was pain around your arms.

25 Which arm gave you the most pain?

1 A My left.

2 Q What kind of pain or what was the pain causing?

3 A I couldn't move my arm.

4 Q Was that your left arm?

5 A Yes.

6 Q And by couldn't move, do you mean not at all or

7 just a little bit?

8 A No, it was like stuck in a position.

9 Q Okay. Did you have to get treatment for that?

10 A Yeah, I had physical therapy.

11 Q For how long?

12 A For a month.

13 Q Did that physical therapy cure you?

14 A It helped straighten my arm back out, yes.

15 Q Okay. Did you experience any kind of other

16 injuries, specifically on your left hand?

17 A Yeah.

18 Q And what is it?

19 A I had to have surgery on my thumb.

20 Q Okay. Why? What was wrong with your thumb?

21 A I could no longer move my thumb.

22 Q And could you move it before you were stabbed in

23 your arm multiple times?

24 A Yes.

25 Q Did the surgery repair movement in your thumb?

1 A Yes.

2 Q When did you go back to work?

3 A In October.

4 Q How long were you off work?

5 A Three months.

6 Q Aneka, do you have scars from these wounds?

7 A Yes.

8 Q Do you mind, with the Court's permission,
9 stepping down from the witness stand and showing the -- the
10 jury members where your scars are? If you don't mind?

11 A I don't mind.

12 MS. BOTELHO: Permission, Your Honor?

13 THE COURT: She can step down.

14 MS. BOTELHO: For the record, Your Honor, she's
15 showing the jurors the scars primarily to her left arm. There
16 are numerous ones throughout. Also on her chest and neck
17 area, Your Honor. Can all of you see? There's a scar also to
18 her right shoulder and to her right armpit area.

19 Court's indulgence. I have nothing further, Your
20 Honor. Thank you.

21 THE COURT: At this time we're going to take a
22 15-minute recess. During this recess you're admonished not to
23 talk or converse among yourselves with anyone else on any
24 subject connected to the trial or read, watch, or listen to
25 any report of or commentary on the trial or any person

1 connected with this trial by any medium of information
2 including, without limitation, newspapers, television, the
3 Internet, or radio or form or express any opinion on any
4 subject connected with this trial until the case is finally
5 submitted to you.

6 Thank you very much. You're excused.

7 (Court recessed at 3:11 p.m. until 3:34 p.m.)

8 THE COURT: Do the parties stipulate -- that's okay,
9 you can have a seat. Do the parties stipulate to the presence
10 of the jury panel?

11 MS. BOTELHO: Yes, Your Honor.

12 MR. HILLMAN: Yes, Judge.

13 THE COURT: Okay. Ms. Newman can take the stand
14 again and you will begin your cross-examination --

15 MS. HOJJAT: Thank you, Your Honor.

16 THE COURT: -- when she returns. Thank you, Ms.
17 Newman. And now we're going to begin cross-examination.
18 Okay?

19 THE WITNESS: Okay.

20 THE COURT: Thank you.

21 CROSS-EXAMINATION

22 BY MS. HOJJAT:

23 Q Good afternoon, Ms. Newman.

24 A Hi.

25 Q How are you doing today?

1 A Good.

2 Q Okay. I'm going to ask you some questions. If
3 you need to stop or take a break anytime while I'm asking
4 questions just let me know. Okay?

5 A Okay.

6 Q Now, you testified on direct examination that
7 Bennett came into your house without your permission.

8 A Yes.

9 Q And you were actually trying to push on the door
10 to keep him out.

11 A Yes.

12 Q And you said he shoved his way into the house.

13 A Yes.

14 Q And then after he shoved his way into the house
15 he was standing at the entryway.

16 A Yes.

17 Q And at that time you didn't see that he had a
18 knife on him. You didn't see a knife on him.

19 A No.

20 Q Okay. You didn't see him holding one or see a
21 knife in his pocket?

22 A No.

23 Q Okay. And to the best of your knowledge he
24 didn't have a knife on him.

25 A Right.

1 Q And he didn't have a gun in his hand.

2 A No.

3 Q Didn't have a gun in his pocket.

4 A No.

5 Q To the best of your knowledge he didn't have a
6 gun on him?

7 A No.

8 Q In fact, when he came into your house he wasn't
9 holding any weapon.

10 A No.

11 Q Okay. And to the best of your knowledge he
12 didn't have any weapon anywhere on his person.

13 A Correct.

14 Q And you testified that when he entered and
15 stopped at that entryway, he actually -- he wanted to have a
16 conversation with you, didn't he?

17 A Correct.

18 Q He wanted to try to resolve things between you.

19 A Correct.

20 Q He was kind of pleading with you?

21 A Yes.

22 Q So when he walked in the door he wasn't saying
23 I'm going to kill you.

24 A No.

25 Q He wasn't threatening to beat you.

1 A No.

2 Q He wasn't saying he was going to hit you.

3 A No.

4 Q He wasn't threatening to hurt your mother.

5 A No.

6 Q Wasn't saying he was going to kill her.

7 A No.

8 Q Wasn't threatening to hit her.

9 A No.

10 Q He wasn't threatening you --

11 A No.

12 Q -- at all. He wasn't threatening your mother at

13 all.

14 A No.

15 Q And you said he actually said I love you.

16 A Yes.

17 Q And he told your mother I love your daughter.

18 A Yes.

19 Q And when he was standing there in that entryway

20 his demeanor, it was sad.

21 A Yes.

22 Q It wasn't angry.

23 A No.

24 Q It was pleading.

25 A Yes.

1 Q And you did actually have a conversation with
2 Bennett that day.

3 A At that time?

4 Q Yes.

5 A Yeah, there was.

6 Q And he was standing in the entryway and you guys
7 talked for about five minutes.

8 A Approximately.

9 Q And through that entire conversation he was
10 standing in front of the front door.

11 A Yes.

12 Q Okay.

13 MS. HOJJAT: Court's indulgence, Your Honor. Thank
14 you. Your Honor, permission to approach the witness?

15 THE COURT: You may.

16 MR. HILLMAN: Do you want me to move the easel for
17 you?

18 MS. HOJJAT: Oh, thank you.

19 BY MS. HOJJAT:

20 Q Okay. Ma'am, I'm showing you what's been marked
21 for identification purposes only as Defense Exhibit B. This
22 is a layout of your apartment, correct?

23 A Yes.

24 Q And it's a fair and accurate depiction of the
25 layout of your apartment?

1 A Yes.

2 MS. HOJJAT: At this time, Your Honor, we move to
3 admit Defense Exhibit B into evidence?

4 MS. BOTELHO: No objection, Your Honor.

5 THE COURT: It's admitted.

6 MS. HOJJAT: Thank you.

7 (Defendant's Exhibit B admitted.)

8 MS. HOJJAT: Permission to publish to the jury, Your
9 Honor.

10 THE COURT: You may.

11 MS. HOJJAT: Thank you.

12 THE COURT: How come you have a whole bunch of the
13 same thing?

14 MR. HILLMAN: We're going to have different witnesses
15 mark different exhibits.

16 THE COURT: Okay. Got it.

17 MS. HOJJAT: And, Your Honor, I'm sorry, if I can
18 actually have the witness step down from the witness box?

19 THE COURT: Sure. She's going to want you to step
20 down. I think she's going to want you to discuss that outline
21 with the jury.

22 BY MS. HOJJAT:

23 Q Now, you said that this was the correct
24 depiction of the floor plan of your apartment?

25 A Yes.

1 Q Okay. And you said that when Bennett entered he
2 was standing at the entryway?

3 A Yes.

4 Q Okay. Can you go ahead and put a B for Bennett
5 right at the entryway?

6 A (Witness complies)

7 Q And you testified that you were standing in
8 front of the counter, in front of the kitchen?

9 A At one point.

10 Q Okay. Can you put an A for yourself in front of
11 where on that counter -- around where on that counter you were
12 standing?

13 A (Witness complies)

14 Q Now, from the entryway to the counter, would you
15 say it's about five feet? That's a correct estimate?

16 A About five to seven feet.

17 Q About five to seven feet you said?

18 A Yes.

19 Q I think that's all there is. You can go ahead
20 and have a seat.

21 So now throughout this conversation, Bennett was
22 standing where you marked that B in the entryway.

23 A Uh-huh.

24 Q And you were moving around your apartment you
25 said.

1 A Yes.

2 Q And at some point you came to stand next to the
3 bar.

4 A Yes.

5 Q Where you marked that A.

6 A Yes.

7 Q Okay. And while you're moving around Bennett
8 isn't moving.

9 A No.

10 Q He's just standing at the entryway.

11 A At that time, yes.

12 Q Where you marked the B.

13 A Yes.

14 Q Now that bar area where you were standing is
15 directly across the counter from your kitchen sink, correct?

16 A Yes.

17 Q Okay. And you testified that's about five to
18 seven feet --

19 A Yes.

20 Q -- away. And you said at this point that you
21 made a phone call to one of your friends?

22 A Yes.

23 Q Okay. Now was that a phone call or was that a
24 text that you were sending?

25 A I can't really remember.

1 Q Okay.

2 MS. HOJJAT: Court's indulgence, Your Honor.

3 BY MS. HOJJAT:

4 Q Now it's at this point while you're standing at
5 the counter and Bennett is standing at the front door that you
6 say Bennett starts walking towards the counter.

7 A Yes.

8 Q Okay. So he walks five to seven feet to the
9 counter where you're standing.

10 A Yes.

11 Q And it's your testimony that he reached across
12 the counter and he took the knife from the dried dishes area;
13 is that correct?

14 A Yes, yes.

15 Q And then he takes you and he walks you five to
16 seven feet back to the front door.

17 A He grabs me, yes.

18 Q Okay. And moves you all the way back to the
19 front door.

20 A Yes.

21 Q Where he was standing.

22 A Yes.

23 Q And it's there that you say he begins stabbing
24 you.

25 A Yes.

1 Q That's where the first stab occurred.

2 A Yes.

3 Q You weren't stabbed next to the counter.

4 A I don't remember.

5 Q Okay. Well, you just said that the first stab
6 was at the front door, correct?

7 A I believe so.

8 MS. HOJJAT: Court's indulgence, Your Honor.

9 BY MS. HOJJAT:

10 Q Do you remember testifying in the preliminary
11 hearing in this case?

12 A Yes.

13 Q And that was soon after this incident occurred.

14 A Yes.

15 Q Everything was still fresh in your mind.

16 A Yes.

17 Q You could remember what had happened. And at
18 the preliminary hearing you testified that, "he pulled me over
19 to the front door and then started stabbing."

20 A Okay.

21 Q And you actually testified that you weren't
22 stabbed until you were at the front door, correct?

23 A I don't --

24 THE COURT: What's the question? Are you asking her
25 exactly what her testimony was at the preliminary hearing?

1 MS. HOJJAT: Yes, Your Honor.

2 THE COURT: Okay. Do you remember exactly what your
3 testimony was at the preliminary hearing?

4 THE WITNESS: I don't remember exactly what I
5 testified.

6 BY MS. HOJJAT:

7 Q Okay. Would it refresh your recollection to see
8 a transcript of the preliminary hearing?

9 A Sure.

10 MS. HOJJAT: Can I approach, Your Honor?

11 THE COURT: You may.

12 BY MS. HOJJAT:

13 Q If you could read to yourself from lines 14
14 through 18. And so you did testify at the preliminary hearing
15 that the first stab occurred here --

16 A Yes.

17 Q -- at the entryway?

18 A Yes.

19 Q And that you were never stabbed here at the
20 counter?

21 A Correct.

22 Q I want to talk to you a little bit about the
23 knife. You testified that Bennett didn't bring that knife
24 with him.

25 A Yes.

1 Q That knife came from your apartment.
2 A Yes.
3 Q It was your knife.
4 A Yes.
5 Q It came from inside your kitchen.
6 A Yes.
7 Q From next to the sink.
8 A Yes.
9 Q That's next to the bar.
10 A Yes.
11 Q That's where you were standing.
12 A Yes.
13 Q And you said it was in the area that you kept
14 your recently dried dishes.
15 A Yes.
16 Q So those are the dishes that have just been
17 washed.
18 A Yes.
19 Q So that knife had just been washed probably?
20 A Probably.
21 Q Probably it was sitting there drying.
22 A Yeah.
23 Q Okay. And you testified that you didn't touch
24 the knife.
25 A No, I did not.

1 Q Okay. And that you never had the knife in your
2 hand during this encounter with Bennett.

3 A That is correct.

4 Q And you said that when you were at the front
5 entryway with Bennett, you were on the floor.

6 A Is that when I first walked in? I'm not certain
7 what you're asking me.

8 Q After -- after you say Bennett has walked five
9 to seven feet to the counter --

10 A Okay.

11 Q -- taken the knife and taken you and walked you
12 back five to seven feet to the entryway --

13 A Yes.

14 Q -- where he was standing --

15 A Yes.

16 Q -- you said you were on the floor when he first
17 stabbed you.

18 A Was tackled to the floor, yes.

19 Q Okay. And for the rest of that encounter you
20 said you were on the floor.

21 A Yes.

22 Q So you were not standing upright.

23 A No.

24 Q You sure of that?

25 A Pretty sure, yeah.

1 Q Okay. And this was immediately you were on the
2 floor once you were in that entryway.

3 A As soon as he tackled me to the ground, yes.

4 Q Okay. And when the police arrived you were on
5 the floor.

6 A Yes.

7 Q You were not standing upright when the police
8 walked into your apartment.

9 A No.

10 Q You were not standing hunched over --

11 A No --

12 Q -- when the police walked into your apartment.

13 A No.

14 Q You're sure you were on the ground --

15 A Positive.

16 Q -- when the police walked into your apartment?

17 A Yes.

18 MS. HOJJAT: Court's indulgence. Pass the witness,
19 Your Honor.

20 THE COURT: Any redirect?

21 MS. BOTELHO: Yes, Your Honor.

22 MS. BOTELHO: Court's indulgence, Your Honor.
23 Exhibits.

24 REDIRECT EXAMINATION

25 BY MS. BOTELHO:

1 Q Aneka, you were asked on cross-examination about
2 the defendant, Bennett, coming to the apartment, your
3 apartment, without your permission and him shoving his way
4 into your particular apartment; is that right?

5 A Yes.

6 Q Prior to him shoving his way into the apartment,
7 did you see Bennett outside near your apartment?

8 A No.

9 Q And is it fair to say that the first time you
10 saw him was when he made it to your front door?

11 A Yes.

12 Q And as your mom was calling for you to help her
13 keep him out.

14 A Yes.

15 Q At that time were you and your mom telling
16 Bennett to stop?

17 A Yes.

18 Q Stop trying to shove his way in?

19 A Yes.

20 Q Okay. Did he listen?

21 A No.

22 Q You were cross-examined about this conversation
23 that you had with the defendant. During the course of that
24 conversation do you recall telling him to leave?

25 A Yes.

1 Q Approximately how many times did you tell him to
2 leave?

3 A I don't know exactly how many.

4 Q Estimate, more than five?

5 A Yes.

6 Q More than 10?

7 A Maybe.

8 Q Okay. Did you hear your mom telling him to
9 leave?

10 A Yes.

11 Q Did he listen?

12 A No.

13 Q You were asked on cross-examination --

14 MS. BOTELHO: Permission to publish State's Exhibit
15 26.

16 THE COURT: You may.

17 BY MS. BOTELHO:

18 Q Can you see that?

19 A Yes.

20 Q You were asked about the fact that Bennett
21 stayed right here by the front door. Okay?

22 A Yeah.

23 Q When Bennett was at the front door, was the
24 front door closed or opened?

25 A Closed.

1 Q Could you or your mom exit using that front
2 door?

3 A No.

4 Q When Bennett was standing in that front door and
5 -- in that front door area and he was, you know, according to
6 cross-examination kind of calm, having a calm conversation
7 with you, were you feeling threatened?

8 A Yes.

9 Q Were you feeling threatened by the fact that you
10 could not leave the apartment through the front door, which he
11 was blocking?

12 A No.

13 Q Did you feel as though you could exit using that
14 front door?

15 A No.

16 Q And again, you asked him over and over to leave?

17 A Yes.

18 Q He wouldn't listen so you had to call 9-1-1; is
19 that right?

20 A Yes.

21 Q And in your 9-1-1 call that we just listened to,
22 you asked the police to make him leave; is that right?

23 A Yes.

24 Q You were asked about his demeanor while he was
25 standing in this front door area. You said he was calm,

1 pleading. Okay? What was his demeanor when he was repeatedly
2 stabbing you in that same area?

3 MS. HOJJAT: Objection.

4 THE COURT: What's the objection?

5 MS. HOJJAT: Argumentative.

6 THE COURT: Overruled. You may proceed.

7 MS. BOTELHO: Thank you.

8 BY MS. BOTELHO:

9 Q What was his demeanor when he was repeatedly
10 stabbing you in that area?

11 A Really don't know. Anger, I guess.

12 Q Okay. Did you tell him to stop?

13 A I think I was yelling, "Please, stop.".

14 Q Okay. Did he listen?

15 A No.

16 Q Aneka, approximately how many times did he stab
17 you?

18 A Twenty-five.

19 Q You were asked at length about the fact that
20 when Bennett was standing in front of the front door he didn't
21 have any weapons on him --

22 A Correct.

23 Q -- is that right?

24 A Yes.

25 Q In fact, in the 9-1-1 call that you placed you

1 were asked specifically whether or not anyone had access to
2 weapons. You said no; is that right?

3 A Yes.

4 Q Okay. In that 9-1-1 call you too sounded
5 relatively calm; is that right?

6 A Yes.

7 Q Okay. Aneka, when you were having this
8 conversation with Bennett were you angry?

9 A No.

10 Q Okay. What is it that you wanted to happen?

11 A For him just to leave.

12 Q Okay. Were you in the state of mind or -- were
13 you wanting to hurt him?

14 A No.

15 Q Was anything happening that would cause you to
16 reach over and grab a weapon?

17 A No.

18 Q Was anything happening prior to -- or after you
19 called 9-1-1 that would cause you to reach for a weapon?

20 A No.

21 THE COURT: Did she answer?

22 MS. BOTELHO: Yes.

23 THE COURT: Okay.

24 MS. BOTELHO: She said no, Your Honor.

25 THE COURT: Thank you.

1 MS. BOTELHO: Court's indulgence.

2 BY MS. BOTELHO:

3 Q Aneka, you said on cross-examination that he
4 grabbed a knife from that area that we've already shown
5 pictures of.

6 MS. BOTELHO: Ad if I could just have the Court's
7 brief indulgence. Permission to publish -- I don't know if
8 this is already -- may I ask the -- your clerk, Your Honor, if
9 State's Exhibit 31 had already been admitted into evidence?

10 THE COURT: Thirty-one, State's 31.

11 THE CLERK: Thirty-one, 32 and 33 [indiscernible].

12 THE COURT: Thirty-one, 32 and 33 have not been
13 admitted.

14 MS. BOTELHO: Permission to approach the witness,
15 Your Honor?

16 THE COURT: You may.

17 BY MS. BOTELHO:

18 Q Aneka, I'm going to show you State's Exhibits --
19 or proposed Exhibits 31, 32 and 33. Do you recognize what's
20 shown in this photo?

21 A It's a knife.

22 Q Okay. Do you recognize this knife as being the
23 knife that was taken from your dish rack?

24 A I'm not sure.

25 Q Okay. Do you have knives like this at your

1 home?

2 A Yes.

3 Q Okay. Do they look similar to this?

4 A Yes.

5 Q In fact, do you have a knife block containing a
6 set of knives?

7 A Yes.

8 Q Okay. Since July 22nd, 2011 are you missing a
9 knife?

10 A Yes.

11 Q And these look -- they fairly and accurately
12 show what your knives look like at least.

13 A Yes.

14 MS. BOTELHO: Your Honor, I move to admit to State's
15 Exhibit 31, 32 and 33 into evidence.

16 MR. HILLMAN: Judge, the only problem I have is they
17 appear to be larger in this --

18 THE COURT: Can I see?

19 MR. HILLMAN: -- in these photos then the actual
20 implement is.

21 THE COURT: What do you mean, they're close-ups?

22 MR. HILLMAN: Yes.

23 MS. BOTELHO: We have other photos with --

24 THE COURT: So the objection is --

25 MR. HILLMAN: That it's not representative.

1 THE COURT: -- that it doesn't accurately reflect?

2 MR. HILLMAN: Correct.

3 THE COURT: Okay. Overruled and they can be admitted
4 into evidence.

5 (State's Exhibit 31, 32, and 33 admitted.)

6 MS. BOTELHO: Permission to -- or it's admitted is
7 that what you --

8 THE COURT: Uh-huh, they're admitted.

9 MS. BOTELHO: Thank you. May I publish, Your Honor?

10 THE COURT: You may.

11 BY MS. BOTELHO:

12 Q Aneka, I showed you up there State's Exhibit 32
13 and you said this is similar to the knife that you have in
14 that knife block. And I'll show you that picture in a minute.
15 And you're missing one just like this --

16 A Yes.

17 Q -- since that July 22nd, 2011 incident with
18 Bennett; is that right?

19 A Yes.

20 Q Now prior to that date, Aneka, do you recall
21 having a knife --

22 MS. BOTELHO: Permission to publish Exhibit 33?

23 THE COURT: You may.

24 BY MS. BOTELHO:

25 Q Do you remember having a knife in your knife set

1 bent like this?

2 A No.

3 Q Okay. So your knives were in relatively good
4 condition?

5 A Yes.

6 MS. BOTELHO: Permission to publish -- this one's
7 admitted, I believe, Exhibit number 19.

8 THE CLERK: No, it's not.

9 THE COURT: It's not admitted.

10 MS. BOTELHO: May I approach, Your Honor?

11 THE COURT: You may.

12 BY MS. BOTELHO:

13 Q Aneka, State's proposed Exhibit Number 19. Do
14 you recognize what's shown here?

15 A Yes.

16 Q Okay. Does this fairly and accurately show the
17 way your apartment looked after the incident with Bennett on
18 July 22nd, 2011?

19 A Yes.

20 MS. BOTELHO: Move to admit, Your Honor.

21 MR. HILLMAN: No objection.

22 THE COURT: It's admitted.

23 (State's Exhibit 19 admitted.)

24 MS. BOTELHO: Permission to publish?

25 THE COURT: You may.

1 MS. BOTELHO: Thank you.

2 BY MS. BOTELHO:

3 Q Aneka, I'm going to call your attention and zoom
4 in here. Do you see what I'm zooming in on?

5 A Yes.

6 Q Do you see this right here? Is that the knife
7 block that you have --

8 A Yes.

9 Q -- in your kitchen?

10 A Yes.

11 Q And is it your understanding that it was one of
12 those knives that you had in the dish rack located right there
13 drying?

14 A Yes.

15 MS. BOTELHO: I have no further questions.

16 THE COURT: Any recross?

17 MS. HOJJAT: Briefly. I'm sorry, where's the Exhibit
18 you just entered?

19 There's a lot of them.

20 MS. BOTELHO: These are the knives.

21 RECROSS-EXAMINATION

22 BY MS. HOJJAT:

23 Q Aneka, you testified that you asked Bennett to
24 leave your apartment multiple times.

25 A Yes.

1 Q Many times.

2 A Yes.

3 Q Did you say more than 10 times?

4 A Approximately.

5 Q And he wasn't listening to you.

6 A No.

7 Q And you testified on direct you just wanted him
8 to be gone.

9 A Yes.

10 Q Forever.

11 A Yes.

12 MS. HOJJAT: Your Honor, permission to publish
13 State's Exhibit 19?

14 THE COURT: You may.

15 BY MS. HOJJAT:

16 Q Aneka, those are the flip-flops you were wearing
17 that day?

18 A Yes.

19 Q And they're right there next to the counter.

20 A Yes.

21 Q That's directly across from the sink that's next
22 to the drying rack.

23 A Yes.

24 Q Where the knife was.

25 A Uh-huh.

1 Q And those are the flip-flops you were wearing
2 when you came home that day.

3 A Yes.

4 MS. HOJJAT: No further questions, Your Honor.

5 THE COURT: Anything else? Okay. Looks as though we
6 have a couple questions. We'll -- Ms. Newman, the jury panel
7 -- Ms. Newman, if you'll just be patient just a minute, the
8 jury panel has some questions for you.

9 THE WITNESS: Okay.

10 THE COURT: Okay. It appears as though we have two
11 questions so they will be marked as Court's Exhibit next in
12 line, Exhibit 2 and Exhibit 3.

13 (Off-record bench conference.)

14 THE COURT: All right. Ms. Newman, the Court is
15 going to ask what's been marked as Court's Exhibit Number 2
16 and Court's Exhibit Number 3 will not be asked.

17 Ms. Newman, when you were on the ground being stabbed
18 by the front door, do you recall if you were laying down or
19 upright on knees?

20 THE WITNESS: Laying down.

21 THE COURT: I'm sorry?

22 THE WITNESS: I was laying down.

23 THE COURT: Okay. All right. Those will be marked
24 and be part of the record. Does either side have any
25 follow-up questions?

1 MS. BOTELHO: Very briefly.

2 THE COURT: Okay.

3 FURTHER REDIRECT EXAMINATION

4 BY MS. BOTELHO:

5 Q Ms. Newman, you testified that you were on the
6 ground and that you were on the ground mostly throughout the
7 entire time that you were being stabbed?

8 A Yes.

9 Q Is it fair to say that you were also trying to
10 struggle and get away from Mr. Bennett?

11 A Yes.

12 Q Is it also fair to say that this attack happened
13 fairly quickly?

14 A Yes.

15 Q And you did not have a tape recorder with you at
16 that time?

17 A No.

18 Q All right. So is it fair to say that you may
19 not necessarily remember every single detail?

20 A That's correct.

21 Q Of what happened?

22 A Yes.

23 MS. BOTELHO: Nothing further.

24 MS. HOJJAT: And I do have -- briefly, Your Honor.

25 THE COURT: Okay. Go ahead.

1 FURTHER RECROSS-EXAMINATION

2 BY MS. HOJJAT:

3 Q But Mrs. Newman -- Ms. Newman, it is fair to say
4 that you do remember you were down on the ground?

5 A Yes.

6 Q And you do remember you were not on your knees.

7 A Correct.

8 Q You were sure you were down on the ground.

9 A Yes.

10 MS. HOJJAT: No further questions, Your Honor.

11 THE COURT: Okay. All right. At this time Ms.
12 Newman, thank you very much for being here.

13 THE WITNESS: Thank you.

14 THE COURT: You may step down. You're excused from
15 your subpoena. Thank you for your testimony provided --

16 THE WITNESS: Thank you.

17 THE COURT: -- to this jury panel. You can call your
18 next witness.

19 MR. BURNS: Your Honor, the State calls Stephanie
20 Newman.

21 STEPHANIE NEWMAN, STATE'S WITNESS, SWORN

22 THE CLERK: Thank you. Please be seated. And could
23 you please state your full name, spelling your first and last
24 name for the record?

25 THE WITNESS: My name is Stephanie Newman,

1 S-t-e-p-h-a-n-i-e, N-e-w-m-a-n.

2 THE COURT: You may have a seat, Ms. Newman. And you
3 may begin your direct examination.

4 MR. BURNS: Your Honor, may I have the Court's brief
5 indulgence to approach your clerk?

6 THE COURT: Sure, sure.

7 DIRECT EXAMINATION

8 BY MR. BURNS:

9 Q Good afternoon, Mrs. Newman. How are you doing?

10 A I'm fine.

11 Q Okay. Do you know a person named Aneka Grimes?

12 A Yes, I do.

13 MR. BURNS: Your Honor, may I approach the witness
14 with State's proposed Exhibit 82?

15 THE COURT: You may.

16 BY MR. BURNS:

17 Q Do you recognize that person?

18 A Yes, I do.

19 Q And who's that?

20 A That's my daughter.

21 Q Okay.

22 MR. BURNS: May I publish this exhibit, Your Honor?

23 THE COURT: Has it been admitted?

24 MR. BURNS: If I could move for its admission?

25 THE COURT: Any objection?

1 MS. HOJJAT: No objection, Your Honor.

2 THE COURT: It's admitted.

3 (State's Exhibit 82 admitted.)

4 MR. BURNS: And may I publish, Your Honor?

5 THE COURT: You may.

6 BY MR. BURNS:

7 Q That's your daughter Aneka?

8 A Yes, it is.

9 Q Now, do you have a husband?

10 A Yes, I do.

11 Q And what's his name?

12 A His name is Earl Newman.

13 Q And where was Earl living -- where were you and
14 Earl living in July of 2011?

15 A In Victorville.

16 Q Okay. And that's in California?

17 A Yes.

18 Q And do you know a person by the name of Bennett
19 Grimes?

20 A Yes, I do.

21 Q Do you see him here today in the courtroom?

22 A Yes, I do.

23 Q Can you point to him and describe something he's
24 wearing?

25 A He's right there. He has on a pink shirt.

1 Q Okay.

2 MR. BURNS: Your Honor, may the record reflect that
3 the witness has identified the defendant?

4 THE COURT: So reflected.

5 BY MR. BURNS:

6 Q Mrs. Newman, I want to draw your attention to
7 July 22nd, 2011. Do you remember that date?

8 A Yes, I do.

9 Q And were you here in Las Vegas?

10 A Yes, I was.

11 Q And what were you doing?

12 A Visiting my daughter.

13 Q Okay. And were you visiting her at her
14 apartment?

15 A Well, actually I came down because she wanted to
16 go buy a new car and I went with her to go buy a new car.

17 Q Okay. So you weren't staying with her?

18 A I was staying with her, yes.

19 Q Oh, okay. And is that the apartment on West
20 Desert Inn Road?

21 A Yes, it is.

22 Q Okay. Now at some point, did -- after shopping
23 for a new car, did you return to Aneka's apartment?

24 A Yes, we did.

25 Q All right. Show you what's been admitted as --

1 I believe what's been admitted as State's Exhibit 1.

2 MR. BURNS: Your Honor, may I publish?

3 THE COURT: You may publish.

4 BY MR. BURNS:

5 Q Do you recognize that?

6 A Yes. Yes, I do.

7 Q Okay. And what's that location?

8 A That's her apartment.

9 Q And I'm showing you what's been admitted as
10 State's Exhibit 2. Do you recognize that?

11 A Yes.

12 Q Now I'm showing you what's been marked as
13 State's Exhibit 5.

14 MR. BURNS: Your Honor, may I publish?

15 THE COURT: You may.

16 BY MR. BURNS:

17 Q Do you recognize that?

18 A Yes.

19 Q And what is that?

20 A That is her front door.

21 Q Okay.

22 A Of her apartment.

23 Q So when you're returning to the apartment, about
24 what time is it?

25 A About six.

1 Q Okay. You go into the apartment, the two of
2 you?

3 A Yes. She goes --

4 Q And who --

5 A -- she goes before me.

6 Q And so you enter second?

7 A I enter second, yes.

8 Q And what happens after you enter?

9 A After I enter -- like she walks in and I walk
10 behind her. I turn around to close the door and I see like
11 Bennett walking -- running up to the door and then pushing --
12 he started pushing his way -- like pushing -- I'm trying to
13 close the door and he's pushing to get in the door. So I turn
14 around and I call Aneka so she could come help me push the
15 door to close it so that he couldn't get in.

16 Q Did you have any indication before this happened
17 that Bennett was in the area?

18 A No.

19 Q Did he give you any notice before he came into
20 the house --

21 A No.

22 Q -- or attempted to?

23 A No.

24 Q Showing you again State's Exhibit 2. Do you --
25 do you know where he came from?

1 A Yes.

2 Q Okay. Is it -- is the area where he came from
3 depicted in State's Exhibit 2 on the overhead monitor right
4 now?

5 A He came from around the other side of the
6 stairs.

7 Q Okay. And if it helps you you could draw in the
8 -- you can touch the screen and it will make a little mark.

9 A Okay.

10 Q Okay. And so you've indicated the other side --
11 the far side of the stairwell from the front door?

12 A Yes.

13 Q And that's where he came from?

14 A Yes.

15 Q Okay. Now is he -- is he ever successful in
16 pushing his way through?

17 A Yes.

18 Q And Mrs. Newman, do you recall if he was holding
19 anything in his hands?

20 A He was holding a bag.

21 Q Okay.

22 MR. BURNS: Your Honor, may I publish what's been
23 admitted as State's Exhibit 26?

24 THE COURT: You may.

25 BY MR. BURNS:

1 Q Mrs. Newman, do you recognize -- do you see the
2 bag in State's Exhibit 26?

3 A Yes, I do.

4 Q And where -- whereabouts is it located? Okay.
5 And can you articulate for the record and for the jury, is
6 that near the front door or is it farther into the apartment?

7 A This one -- this is farther into the apartment.

8 Q The blue bag?

9 A Yes.

10 Q And is it in fact close to the buffet?

11 A Yes, it is.

12 Q Now, when the defendant comes into the house and
13 he's successfully pushed his way into the house, what kind of
14 conversation ensues, if any?

15 A Well, after he knocked me out of the way he
16 pushed -- he pushed us in like, you know, just pushing the
17 door until -- he kind of knocked me back, you know. And he
18 started talking basically, you know, about let him come back,
19 please let him come back, you know. He got a job, he can take
20 care of the kids now. You know, why you -- you know, why are
21 you doing this to me, you know, that kind of stuff.

22 Q And what do you recall Aneka's reaction being to
23 that?

24 A She was like just get out because you're not
25 supposed to be here, just get out.

1 Q And is it safe to say there is some kind of --
2 some kind of dialogue between the two?

3 A Well, like what do you mean?

4 Q There was an argument between the two of them or
5 --

6 A Well, all three of us were trying to get him to,
7 you know -- both of us were trying to get him out.

8 Q And what are you saying at this point?

9 A I'm telling him to get out.

10 Q At some point do you -- do you decide to call
11 someone?

12 A At some point, yes. It took about, I would
13 say --

14 THE COURT: Okay. So you did call somebody?

15 THE WITNESS: Yes.

16 THE COURT: Okay.

17 BY MR. BURNS:

18 Q Okay. And who did you call?

19 A I called my husband.

20 Q And when you're on the phone with your husband,
21 what do you tell him is going on?

22 A I told him that Bennett had busted his way in
23 and we needed to have the police department come.

24 Q Okay. And at some point do you receive a phone
25 call?

1 A Yes.

2 Q And who's that phone call from?

3 A From 9-1-1.

4 Q Now did you -- did you meet with me and Ms.
5 Botelho and listen to a 9-1-1 phone call?

6 A Yes, I did.

7 Q And was that in fact the phone call an accurate,
8 true recording of the phone call you made?

9 A Yes.

10 Q Okay.

11 MR. BURNS: Your Honor, may I approach the witness?

12 THE COURT: You may.

13 BY MR. BURNS:

14 Q I'm showing you what's been marked as State's
15 proposed Exhibit 79. It's an audio CD. Do you recognize
16 this?

17 A Yes, I do.

18 Q And how do you recognize this CD?

19 A It has my initials and it has my name on it.

20 Q So you wrote your initials on this?

21 A Yes.

22 Q And is this initialed CD in fact a true and
23 accurate recording of the 9-1-1 call you made on July 22nd?

24 A Yes, it is.

25 MR. BURNS: Your Honor, at this point I move for

1 admission and permission to publish State's proposed Exhibit
2 79.

3 MR. HILLMAN: No objection.

4 THE COURT: It's admitted and you may publish.

5 (State's Exhibit 79 admitted.)

6 MR. BURNS: Court's indulgence.

7 (9-1-1 call played for jury)

8 BY MR. BURNS:

9 Q Now, Mrs. Newman, do you recognize the voice on
10 that phone call is yours?

11 A Yes.

12 Q Okay. At some point does Aneka call 9-1-1?

13 A Yes.

14 Q Okay. And while these phone calls are being
15 made, the defendant, where is he standing?

16 A At the door.

17 Q And is the door opened or closed?

18 A No, he's blocking the door.

19 Q Okay. He's blocking it? Do you feel as though
20 you would be able to exit?

21 A No.

22 Q Now, do you recall the defendant's reaction when
23 he realized that 9-1-1 was being called by Earl and by Aneka
24 and you were calling -- speaking with them as well?

25 A Yes.

1 Q What was his reaction?

2 A He called us scandalous.

3 Q He called you scandalous for calling 9-1-1?

4 A Yes.

5 Q Now, at this time is there -- so are you just
6 waiting for the police at that point?

7 A Well, we're still -- we're still, you know,
8 arguing with him to go.

9 Q You're still asking him to go?

10 A Yes.

11 Q Okay. And -- and you're waiting for the police
12 and trying to get him to leave?

13 A Yes.

14 Q And is that strictly verbal?

15 A What the --

16 Q Your encouragement to him to leave, is it just,
17 you know --

18 A Yes.

19 Q -- using words, not --

20 A At this time, yes.

21 Q -- not --

22 A Just words.

23 Q -- now -- and you're not using -- are you using
24 any force to try and get him to leave?

25 A No.

1 Q Now is -- is Aneka acting aggressive towards the
2 defendant?

3 A No, not at all.

4 Q Is she threatening him?

5 A No.

6 Q Okay. Does she have any weapons?

7 A No.

8 Q So at some point do you become aware that the
9 police have arrived?

10 A Yes.

11 Q And how do you become aware that they arrived?

12 A I heard them. I -- so I walked to the patio
13 because my daughter had opened the patio door, so I walked to
14 the patio.

15 MR. BURNS: Your Honor, may I approach the witness?

16 THE COURT: You may.

17 BY MR. BURNS:

18 Q I'm approaching with State's Exhibit 12. Do you
19 recognize --

20 A Yes.

21 Q -- do you recognize --

22 A Yes.

23 Q Okay.

24 MR. BURNS: And, Your Honor, if it's not already
25 admitted, Number 12, I move for its admission at this point.

1 THE COURT: It's not admitted. Any objection?

2 MR. HILLMAN: No.

3 THE COURT: It's admitted.

4 (State's Exhibit 12 admitted.)

5 MR. BURNS: And, Your Honor, may I publish?

6 THE COURT: You may.

7 BY MR. BURNS:

8 Q Now, do you recognize -- Stephanie -- Mrs.
9 Newman, pardon me, do you recognize what's depicted in State's
10 admitted Exhibit 12?

11 A Yes.

12 Q And what's that?

13 A The -- the door of the balcony.

14 Q Okay. And is there a little patio -- patio area
15 out there?

16 A Yes.

17 Q And at -- when all this is going on, is that
18 door open?

19 A Yes.

20 Q And is that the door through which you hear the
21 police arrive?

22 A Actually, yes, yes.

23 Q So once you hear the sound of the police coming
24 through that door, what do you do?

25 A Well, actually they didn't just come through. I

1 walked to the door and to tell them that Bennett was -- to
2 come -- don't -- don't go around to the front door because he
3 was blocking the door, to come that way. And before I can get
4 out the rest of what I was going to tell them, he grabbed her
5 and pulled her toward the door and was stabbing her.

6 MS. HOJJAT: Objection. Speculation, Your Honor.

7 THE COURT: Overruled. You can continue.

8 MR. BURNS: Okay.

9 MS. HOJJAT: Your Honor, if we may approach?

10 THE COURT: I don't need to approach on a
11 speculation.

12 MR. BURNS: Okay. Your Honor, I'll -- I'll back up a
13 little bit.

14 THE COURT: Go ahead.

15 BY MR. BURNS:

16 Q So Mrs. Newman, you're out -- you're out there
17 and you've spoken to the police?

18 A Yes.

19 Q And then while you're out there talking to them,
20 what happens? Why do you next go into the apartment, back
21 into the apartment?

22 A Well, I'm not out there. I'm standing -- can I
23 put a --

24 Q Yeah, absolutely.

25 A Okay. I'm standing like right here.

1 Q Oh, okay.

2 A And the police is right here. So I'm kind of
3 like, you know, not yelling at them because they were close.
4 So I was -- I was kind of talking to them from there.

5 Q Okay. So for -- so you're still -- you still
6 have in the range of your peripheral -- do you have still have
7 in the range of your peripheral vision what's going on between
8 Bennett and Aneka?

9 A At the time, no, because my back was turned.

10 Q Okay. And when do you first -- when you turned
11 to look at them -- well, first, do you hear something before
12 you turn to look at them?

13 A Yes.

14 Q Okay. What do you hear?

15 A My daughter screams out, "Mom, he's stabbing
16 me."

17 Q And safe to say that makes you turn around?

18 A Right, yes.

19 Q And what do you see when you turn around?

20 A When I -- I see them, they're on the floor and
21 he's stabbing her.

22 Q Okay. How would you describe -- so he's just
23 stabbing her. But does he have his arm around her or anything
24 like that?

25 A He has his arm around her neck and then he's

1 just stabbing her with his -- like, you know, like this and
2 stabbing her with his right hand -- I mean his left hand.

3 Q Okay. And for -- you think that he was stabbing
4 with his left hand?

5 A Yes.

6 Q Okay. Are you sure about that?

7 A Not really, I'm not really sure.

8 Q Okay.

9 A Yeah.

10 Q About how many times do you think that you saw
11 the defendant stabbing Aneka?

12 A I -- I would say about 20 times.

13 Q And did you see a knife in his hand?

14 A Yes.

15 Q And how -- so what do you -- what do you do --
16 what do you do while that's going on?

17 A I'm -- I run over to try to see if I can, you
18 know, move -- get her legs or move him out of the way or grab
19 the knife. I can't do -- I can't -- couldn't grab the knife
20 because I'm diabetic.

21 Q Okay.

22 A So I, you know, I couldn't do anything because,
23 you know, of how he -- how he was holding her and how he was
24 hiding himself behind her and stabbing her. So, you know, I
25 just waited until the police jumped over the balcony.

1 Q Okay. So you're describing him as hiding
2 himself behind her while he stabs her?

3 A Kind of sort, yeah, like --

4 Q Now at some point do the police enter the
5 apartment?

6 A Yes, they did.

7 Q And where did they come from?

8 A They jumped over the balcony, this part right
9 here.

10 Q And so what happens next?

11 A One of the detectives -- one of the police
12 officers jumped over and entered through -- through the
13 balcony and run over -- ran over towards where Bennett was
14 still stabbing Aneka.

15 Q And what did -- what did you see that officer
16 do?

17 A He was telling him to put -- put the knife down.

18 Q Okay. Is he -- is he physically intervening?
19 What's going on?

20 A Like, you mean touching him or something?

21 Q Right. Does he touch -- does he go after
22 Bennett?

23 A He doesn't really touch him, but he's -- he's
24 kind of like -- kind of like holding his weapon and telling
25 him to put the -- put the knife down, put the knife down.

1 Q Okay. And at this point is -- has the stabbing
2 been interrupted?

3 A No, he was still stabbing her.

4 Q Okay.

5 A He was still -- until finally he can -- he made
6 him stop and put the knife down.

7 Q When you say he, who do you mean?

8 A The -- the police officer. I'm sorry.

9 Q Okay. So he -- he physically made him put the
10 knife down?

11 A Uh-huh.

12 Q And do you recall whether or not --

13 THE COURT: Is that a yes? Was that a yes?

14 THE WITNESS: Yes.

15 THE COURT: Okay.

16 MR. BURNS: Thank you, Your Honor.

17 BY MR. BURNS:

18 Q Do you -- and do you recall him telling --
19 saying anything to the defendant?

20 A Yes. He kept telling him to put the knife down
21 and be, you know, be still and put the knife down. Or let it
22 go, you know.

23 Q Let it go?

24 A Yeah.

25 Q Okay. Now, I want to back up real quick. Do

1 you recall when -- do you recall giving a voluntary statement
2 to some -- to a police detective or police officer? Did
3 somebody come and interview after --

4 A Yes, yes.

5 Q -- you all after all this? And that -- was that
6 someone who was a police officer?

7 A Yes.

8 Q Okay. And do you recall telling them that the
9 defendant, Bennett Grimes, was stabbing Aneka with his --

10 MR. HILLMAN: Objection, Judge. I think he can use
11 it to refresh her recollection, but I object to him reading it
12 to her.

13 MR. BURNS: Well --

14 THE COURT: Okay. Let me hear.

15 MR. BURNS: Okay.

16 THE COURT: What's --

17 MR. BURNS: Okay, Your Honor. I'll just -- I'll just
18 refresh --

19 THE COURT: Okay.

20 MR. BURNS: -- correctly.

21 THE COURT: Go ahead.

22 BY MR. BURNS:

23 Q Do you recall telling the officers anything
24 about which hand the defendant was using to stab Aneka?

25 A No, I don't.

1 Q If I showed you a copy of your voluntary
2 statement, would that refresh your recollection?

3 A Yes.

4 MR. BURNS: Your Honor, may I approach the witness?

5 THE COURT: You may.

6 BY MR. BURNS:

7 Q Does that refresh your recollection as to which
8 hand you told the police the defendant was using?

9 A Yes.

10 Q And which hand was that?

11 A The right.

12 Q Now, I'm showing you what's been admitted as --
13 well, let me back up. So after they have the defendant
14 subdued, what happens next?

15 A Then they finally open up the door, the front
16 door and -- and take him around to the side of the house.

17 Q And what do you do?

18 A They -- right at that time I'm helping Aneka.

19 Q Okay. And how are you helping her?

20 A Well, after the police officer finished what,
21 you know, getting him to stop stabbing her, she kind of moved,
22 you know, toward me. And I'm sitting on the floor and I'm
23 holding her head, you know, and I'm calling out to the other
24 police officer to give me a towel so I can hold it on the
25 wounds that she had.

1 MR. BURNS: Your Honor, may I publish what's been
2 admitted as State's Exhibit 75 and 76?

3 THE COURT: You may.

4 BY MR. BURNS:

5 Q Now, I'm showing you, Mrs. Newman, State's
6 Exhibit 75. It's focusing. Do you recognize what's depicted
7 in that picture?

8 A Yes.

9 Q Okay. And do you appear to have some blood on
10 you?

11 A Yes.

12 Q And who's that blood from?

13 A Aneka.

14 THE COURT: Okay. Seventy -- I'm sorry, 76 was not
15 admitted.

16 MR. BURNS: I'm sorry -- sorry, Your Honor.

17 MR. HILLMAN: We don't object, Judge.

18 THE COURT: Okay, 76 is admitted.

19 (State's Exhibit 76 admitted.)

20 BY MR. BURNS:

21 Q That's a fair and accurate depiction of how you
22 appeared on that evening -- that night?

23 A Yes.

24 MR. BURNS: And, Your Honor, may I inquire of your
25 clerk as to State's proposed Exhibit 76?

1 THE CLERK: It's now been admitted.

2 THE COURT: It's now admitted.

3 MR. BURNS: Okay, thank you. We need to have a list.

4 BY MR. BURNS:

5 Q Now, Mrs. Newman, do you -- do you at some point
6 go to the hospital with Aneka?

7 A Yes.

8 Q Okay. And you stay in Vegas for some time after
9 that?

10 A Yes.

11 Q After this all happens?

12 A Yes.

13 Q Are you familiar with her condition while she's
14 in the hospital?

15 A No, not really.

16 Q Not really? Have you had an opportunity to see
17 her?

18 A When I first went to the hospital, no.

19 Q Okay. Were you ultimately allowed to see her?

20 A Later, yes.

21 Q Okay. And were you able to observe if she was
22 in pain or not?

23 A Yes.

24 MS. HOJJAT: Objection, hearsay and speculation, Your
25 Honor.

1 MR. BURNS: Based on --

2 THE COURT: I mean, as long as you're not asking for
3 hearsay.

4 BY MR. BURNS:

5 Q You know, based on her physical demeanor, does
6 she -- does she appear to be in pain?

7 A Yes.

8 Q Now, Mrs. Newman, would you in any way describe
9 what was going on between the defendant, Bennett Grimes, and
10 Aneka as a mutual struggle?

11 MS. HOJJAT: Your Honor, objection, speculation.
12 This witness has now testified that she didn't see -- her back
13 was turned for the beginning of the encounter.

14 MR. BURNS: To the extent she saw anything.

15 THE COURT: All right. Correct, to the extent you
16 saw it, would you describe it as a mutual struggle?

17 THE WITNESS: As far as -- can you --

18 BY MR. BURNS:

19 Q As two combatants.

20 THE COURT: You're going to have to --

21 BY MR. BURNS::

22 Q As two people fighting?

23 A No.

24 MR. BURNS: Your Honor, I'll pass the witness.

25 THE COURT: Cross-examination.

1 MS. HOJJAT: Yes, Your Honor. Court's indulgence,
2 Your Honor.

3 CROSS-EXAMINATION

4 BY MS. HOJJAT:

5 Q Good afternoon, Mrs. Newman.

6 A Good afternoon.

7 Q How are you doing today?

8 A I'm fine.

9 Q Now, Mrs. Newman, you testified that you went
10 towards the balcony when you heard the police arrive.

11 A Yes.

12 Q Okay. So you could hear the police?

13 A Right.

14 Q From inside the apartment?

15 A Yes.

16 Q Because you were inside the apartment.

17 A Yes, the windows were open.

18 Q Okay.

19 A Yes.

20 Q So it was obvious to you that police were
21 outside.

22 A Yes.

23 Q And that's why you walked towards the balcony.

24 A Yes.

25 Q Okay. And then --

1 A And plus you could see them.

2 Q -- and you could see them.

3 A You could see -- right.

4 Q Okay. From inside the apartment.

5 A Yes.

6 Q Okay. You said you walked towards the balcony

7 to tell them to go around to the front --

8 A No.

9 Q I'm sorry. To tell them to have one person in

10 the back --

11 A No.

12 Q -- from the balcony area.

13 A No. I told them to not -- I told them don't go

14 around to the front of the house because he was blocking the

15 door.

16 Q Okay.

17 A And you wouldn't have been able to get in.

18 Q Okay.

19 A Because -- so I told them they would have to

20 come that way.

21 Q Okay.

22 A Over the balcony.

23 Q Okay.

24 A To get -- you know, through the apartment.

25 MS. HOJJAT: I see. Court's indulgence, Your Honor.

1 MR. HILLMAN: Judge, can I move the easel out?

2 THE COURT: Sure.

3 MR. HILLMAN: Thank you.

4 MS. HOJJAT: And, Your Honor, if I can approach the
5 witness with what's been marked as --

6 THE COURT: Sure.

7 MS. HOJJAT: -- Defense Exhibit C?

8 THE COURT: C? Any objection to its admission?

9 MR. BURNS: No, Your Honor.

10 THE COURT: Okay. C will be admitted.

11 (Defense Exhibit C admitted.)

12 MS. HOJJAT: Thank you, Your Honor. Permission to
13 approach?

14 THE COURT: You may. Defendant C admitted.

15 MS. HOJJAT: Thank you, Judge.

16 BY MS. HOJJAT:

17 Q Mrs. Newman, this is a floor plan of your
18 daughter's apartment.

19 A Okay.

20 Q Correct?

21 A Uh-huh, correct.

22 MS. HOJJAT: It's already been admitted. Permission
23 to publish to the jury, Your Honor?

24 THE COURT: You may.

25 MS. HOJJAT: Thank you.

1 BY MS. HOJJAT:

2 Q Ma'am, if I could ask you step down from the
3 witness stand. Ma'am, you said that Bennett was at the
4 entryway. In fact, you said he was so close to the entryway
5 he was blocking the door.

6 A Yes.

7 Q And that's why you told officers that they'd
8 have to come in through the patio way. So is it fair to say
9 he was standing right about here?

10 A Inside.

11 Q Inside?

12 A Inside, right here.

13 Q Right here? Okay. Can I ask you to draw a B
14 right where he was standing?

15 A (Witness complies)

16 Q Now, your daughter was walking around the
17 apartment?

18 A No.

19 Q No.

20 A She was standing right here.

21 Q She was standing here.

22 A Right.

23 Q Can I ask you to draw an A where your daughter
24 was standing?

25 A (Witness complies)

1 Q Okay. So when you saw them, Bennett was
2 standing at the entryway and your daughter was standing next
3 to the counter.

4 A Right.

5 Q And you walked to the patio because you saw the
6 officers.

7 A Correct.

8 Q When you turned around, Bennett and your
9 daughter were on the ground.

10 A Yes.

11 Q Okay.

12 A He had pulled her from here back to the door.

13 Q Okay. But you didn't see that happen?

14 A I saw them on the ground. I saw him grab her.

15 When I turned around, I saw him like pulling her this way and
16 then they fell to the ground.

17 Q Ma'am, you testified on direct examination that
18 you were facing the officers when you were on the patio --

19 A I was -- I was facing the officers --

20 Q Okay. And then you heard --

21 A -- by the time I saw them I saw --

22 THE COURT: Okay. All right. It doesn't do any good
23 if everyone's talking over each other. So if you can let her
24 finish her question before you --

25 THE WITNESS: Okay.

1 THE COURT: -- if you both will not interrupt each
2 other, that would be nice.

3 MS. HOJJAT: Thank you, Your Honor.

4 BY MS. HOJJAT:

5 Q So you testified you were talking with the
6 officers, you were standing here. And let the record reflect
7 I'm indicating the area between the dining room and the patio.
8 You said you heard Aneka say, "Mom, he's stabbing me."

9 A Yes.

10 Q And you turned around.

11 A Correct.

12 Q So when you turned around he was stabbing her.

13 A Yes.

14 Q And they were here when the stabbing occurred?

15 A No. They were here.

16 Q Okay. So let the record reflect you're pointing
17 to the entryway near the laundry room, correct?

18 A Yes.

19 Q Okay. Can you go ahead and draw a circle where
20 you saw him stabbing her? Just a big old circle.

21 A (Witness complies)

22 Q Okay. Thank you, ma'am. You can go ahead and
23 have a seat.

24 A So the stabbing that you saw occurred close to
25 the entryway, correct?

1 A Yes.

2 Q And now, you said they were on the ground.

3 A They had fell on the ground, yes.

4 Q They had fallen on the ground. Aneka was on the
5 ground.

6 A Yes.

7 Q You're sure of that?

8 A Yes.

9 Q Bennett was also on the ground.

10 A Yes.

11 Q And this all happened very fast.

12 A Yes.

13 Q You turned around, you see Aneka's on the
14 ground.

15 A Yes.

16 Q You see Bennett's on the ground.

17 A Yes.

18 Q You see there's a knife.

19 A Yes.

20 Q And you run over.

21 A Yes.

22 Q And you're calling for help at this point.

23 A Calling for help?

24 Q Well, you knew the officers were outside.

25 A No. They already -- they heard her hollering.

1 Q Okay.

2 A From inside.

3 Q Okay.

4 A So they jumped over and ran over to, you know,
5 where --

6 Q So the officers are walking in with you almost
7 simultaneously.

8 A Actually, I walked -- I walked from the door --

9 Q Uh-huh.

10 A -- back toward where Bennett and Aneka was at --

11 Q Okay.

12 A -- and they jumped over the -- over the
13 balcony --

14 Q Okay.

15 A -- and they were kind of like behind me.

16 Q Okay.

17 A Like running in behind me.

18 Q Okay.

19 A Because at that time she was screaming.

20 Q Okay.

21 A Yeah.

22 Q But everybody was on the ground when you saw
23 them.

24 A Yes.

25 Q Now, ma'am, I want to talk to you just a little

1 bit -- I want back up and talk to you about when you first
2 entered the house. You testified that you had gone car
3 shopping with your daughter.

4 A Yes.

5 Q And she walked into the apartment first.

6 A Yes.

7 Q And you followed her in.

8 A Yes.

9 Q And at that time when you were going into the
10 house, that's when you saw Bennett.

11 A When -- when I turned around to close the door,
12 yes.

13 Q Okay. And you said Bennett shoved his way into
14 the house. Now, when he entered the house, he didn't have a
15 knife that you could see.

16 A No.

17 Q He didn't have a gun that you could see.

18 A No.

19 Q He didn't have any weapons on him that you could
20 see.

21 A That I could see, no.

22 Q Okay. And you said he was pleading.

23 A He was what?

24 Q Pleading. He was -- he was trying to get Aneka
25 back.

1 A Right.

2 Q He was saying, I love you.

3 A Yes.

4 Q He was saying to you I love your daughter.

5 A Yes.

6 Q In fact, in the 9-1-1 call we could hear him
7 crying in the background.

8 A Yes.

9 Q He was trying to get her back.

10 A Right.

11 Q You said that he talked about the fact that he
12 gotten a new job.

13 A Yes.

14 Q And he thought that might change things.

15 A I guess. I'm not -- I'm not sure.

16 Q Well, he was telling her about the new job. He
17 was saying please come back to me.

18 A Yes.

19 Q He wasn't saying I'm going to kill you.

20 A No.

21 Q He wasn't saying I'm going to stab you.

22 A No.

23 Q He wasn't saying I'm going to beat you.

24 A No.

25 Q He wasn't threatening Aneka at all.

1 A Not really, no.

2 Q Okay. And he wasn't threatening to kill you.

3 A No.

4 Q He wasn't threatening to stab you.

5 A No.

6 Q He wasn't threatening to beat you.

7 A No.

8 Q He wasn't threatening you at all.

9 A No.

10 Q So he wasn't threatening -- he wasn't making
11 verbal threats to anybody in the apartment.

12 A Right.

13 Q And the whole time that he's saying these
14 things, I want you back, I love you, please come back, he's
15 standing in that entryway.

16 A Right.

17 MS. HOJJAT: Court's indulgence, Your Honor.

18 BY MS. HOJJAT:

19 Q Now, ma'am, we've gone over the fact that you
20 didn't see him having a knife when he came into the apartment.

21 A No.

22 Q And you told 9-1-1 you didn't think he had a
23 weapon when they asked you.

24 A Right.

25 Q But at the time that this incident happened, you

1 thought he must have brought the knife with him, didn't you?

2 A No.

3 Q No?

4 A Huh-uh.

5 Q Ma'am, do you recall giving a voluntary
6 statement to the police?

7 A Yes.

8 Q The police interviewed you right after this
9 happened.

10 A Right.

11 Q Everything was still fresh in your mind.

12 A At that time, yes, I did think he had it. I was
13 not sure.

14 Q Okay.

15 A But I -- I told them I thought because I wasn't
16 -- wasn't sure.

17 Q Okay. If you can just let me finish my
18 question. I'm sorry, the court reporter's -- we make it
19 difficult for her when we --

20 A Okay.

21 Q -- both start talking. The voluntary statement
22 was soon after this incident occurred.

23 A Right after.

24 Q Right after.

25 A Uh-huh.

IN THE SUPREME COURT OF THE STATE OF NEVADA

BENNETT GRIMES,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Supreme Court Case No. 74419

APPELLANT'S APPENDIX

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 13th day of March, 2018. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Steven Wolfson, Clark County District Attorney's Office

Adam P. Laxalt, Nevada Attorney General

Jamie J. Resch, Resch Law, PLLC d/b/a Conviction Solutions

By: 

Employee, Resch Law, PLLC d/b/a Conviction Solutions